

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**State Of Wisconsin
Before The Board Of Nursing**

In The Matter Of Disciplinary Proceedings Against

Shirley Ann Tallman, R.N.,
Respondent.

FINAL DECISION AND ORDER
Case #95 NUR 138

LS9801307 NUR

The parties to this action for the purposes of Wis. Stats. §. 227.53 are:

Shirley Ann Tallman, R.N.
8715 Curtis Lake Drive
Minocqua WI 54548

Board of Nursing
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the attached Stipulation. Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Shirley Ann Tallman, R.N., was born June 12, 1950, and is licensed to practice in the state of Wisconsin as a registered nurse pursuant to license #020323. This license was first granted on August 18, 1989.
2. On April 13, 1991, Ms. Tallman was the night nurse in the obstetrics unit at Howard Young Medical Center, Woodruff, with patient VC under her care.
3. Patient VC had a respiratory shutdown while under anesthesia during a cesarean section on the morning of April 13, and had complained of "trouble breathing" later that morning. The nursing staff had administered terbutaline as ordered by VC's physician, which appeared to provide relief.
4. Upon examining VC on the afternoon of April 13, her physician ordered continued administration of oxygen by face mask, Albuterol inhalation therapy every six hours, and oxymetry checks whenever breathing treatments were done.

5. In the evening of April 13, VC complained of shortness of breath upon exertion, and Ms. Tallman recorded bilateral wheezing and a non-productive cough. Two hours later, Ms. Tallman noted that VC still complained of shortness of breath upon exertion and continued to have bilateral wheezing and rhonchi.

6. In the early hours of April 14, VC's resting respiratory rate increased to 40 per minute, with continued shortness of breath and wheezing on both inspiration and expiration. Ms. Tallman also noted that VC was using accessory muscles to breathe. She administered an Albuterol treatment, but did not do an oxymetry check. An hour later, Ms. Tallman recorded VC's respirations as 40 per minute and labored, with expiatory wheezing.

7. At 4:00 a.m., Ms. Tallman advised VC's physician that VC's respirations were 30 per minute and labored, with less wheezing. He ordered use of Terbutaline as needed to ease VC's breathing, but Ms. Tallman chose not to administer the medication at that time because she believed VC had improved.

8. At 5:30 a.m. Ms. Tallman checked on VC, and found that her respirations were 36 per minute, but with less wheezing; VC was snoring loudly, so Ms. Tallman did not awaken her. At 5:54 a.m., Ms. Tallman found VC unresponsive to voice and tactile stimulation; after 40 minutes with the code team, VC was declared unrecoverable. An autopsy reported the cause of death as Adult Respiratory Distress Syndrome.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in this matter pursuant to § 441.07, Stats.
2. The Board of Nursing has the authority to resolve this matter by stipulation without an evidentiary hearing pursuant to § 227.44 (5), Stats.
3. The assessment errors by Ms. Tallman constitute a violation of § N 7.03 (1) (b), (c) and (d).

ORDER

NOW, THEREFORE, the license previously issued to Shirley Ann Tallman, R.N., is LIMITED by the following conditions:

1. Ms. Tallman shall, within six (6) months of the date of this order, submit documentation acceptable to the Board showing successful completion of continuing education in assessment and evaluation. Ms. Tallman shall obtain pre-approval of one or more courses from the Board or its designated agent before she takes the course(s) in fulfillment of this requirement.
2. When Ms. Tallman resumes employment as a nurse, she shall arrange for quarterly reports to the board for one year from her nursing employer evaluating her work performance. The Department Monitor shall provide Ms. Tallman with forms for work reports.

3. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including pre-approval of continuing education and receipt of all reports. The Department Monitor may be reached as follows:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P. O. Box 8935
Madison, WI 53708-8935
FAX (608) 266-2264
TEL. (608) 267-7139

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information."

This Order shall become effective on the date of its signing.

By: 
A Member of the Board

30 Jan 98
Date

cbm

**State Of Wisconsin
Before The Board Of Nursing**

In The Matter Of Disciplinary Proceedings Against

Shirley Ann Tallman, R.N.,
Respondent.

STIPULATION
Case #95 NUR 138

It is hereby stipulated between Shirley Ann Tallman, personally and by her attorney, John O'Brien, and Claudia Berry Miran, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement into Ms. Tallman's license. The stipulation and the proposed Final Decision and Order shall be presented directly to the Board of Nursing for its consideration and adoption.
2. Ms. Tallman consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
3. Ms. Tallman is aware of her right to seek legal representation and has had an opportunity to obtain legal advice prior to signing this stipulation.
4. Ms. Tallman is aware of and understands each of her rights, including:
 - The right to a hearing on the allegations against her, at which time the state has the burden of proving those allegations by a preponderance of the evidence;
 - The right to confront and cross-examine the witnesses against her;
 - The right to call witnesses on her behalf and to compel their attendance by subpoena;
 - The right to testify herself;
 - The right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
 - The right to petition for rehearing; and
 - All other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
4. Ms. Tallman voluntarily and knowingly waives the rights enumerated in paragraph 4 above.
5. If the terms of this stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to the Stipulation agree that the attorney for the Division of Enforcement and the member of the Board of Nursing assigned as an advisor in this investigation may appear before the Board for the purpose of speaking in favor of this agreement and answering questions that the members of the Board may have in connection with their deliberation on the Stipulation.

7. The Division of Enforcement joins Ms. Tallman in recommending the Board of Nursing adopt this stipulation and issue the attached Final Decision and Order.

Shirley A. Tallman, R.N.
Shirley Ann Tallman, R.N.

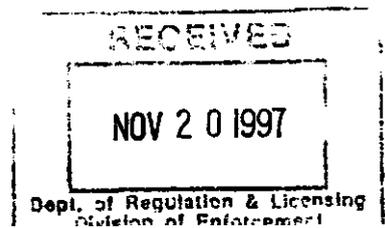
11-17-97
Date

John O'Brien
John O'Brien
Attorney for the Respondent

11/19/97
Date

Claudia Berry Miran
Claudia Berry Miran
Attorney
Division of Enforcement

8/28/97
Date



STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE BOARD OF NURSING

In the Matter of Disciplinary Proceedings Against

Shirley Ann Tallman, R.N.,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On February 4, 1998, I served the Final Decision and Order dated January 30, 1998, LS9801307NUR, upon the Respondent Shirley Ann Tallman's attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 158 319.

John O'Brien, Attorney
Arbutus Court Building
P.O. Box 639
Eagle River WI 54521



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 4th day of February, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: JOHN O'BRIEN ATTY

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 2/4/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935