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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

MICHELE YAZICI, R.N.,
RESPONDENT.

FINAL DECISION AND ORDER
Case No. LS-9912231-NUR

The parties to this matter for purposes of review under § 227.53, Stats., are:

Michele Yazici
3187 Duncan Road
Stoughton, WI 53589

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

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708

This matter was commenced by the filing of a Notice of Hearing on December 23, 1999, and a hearing was held on February 1, 2000. Atty. Steven M. Gloe appeared on behalf of the Department of Regulation and Licensing, Division of Enforcement. The respondent, Michele Yazici, appeared in person without legal counsel.

The Administrative Law Judge filed her Proposed decision in the matter on June 8, 2000, and Ms. Yazici filed her objections to the Proposed Decision on June 12, 2000.

Based upon the entire record herein, the Board of Nursing makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Michele Yazici (d.o.b, 01/09/49), is licensed as a registered nurse in the State of Wisconsin. This license, #54187, was first granted on September 17, 1971.
2. Respondent's most recent address on file with the Wisconsin Board of Nursing is
3187 Duncan Road, Stoughton, WI 53589.
3. At least in December 1998 and January 1999, Ms. Yazici was employed as a registered nurse for HospiceCare, Inc., 2802 Coho Street, Madison, Wisconsin. Respondent was the attending HospiceCare nurse for "DM", an elderly female who had lung cancer with metastasis to the bone.
4. On or about January 29, 1999, DM was transferred from the University of Wisconsin Hospital and Clinic to Attic Angel Nursing Home for terminal care. Shortly after DM was admitted to Attic Angel, she complained of severe pain and had difficulty taking the Percocet tablets prescribed to her upon discharge from the hospital.
5. According to the protocol that existed in 1999, HospiceCare nurses were responsible for the plan of care for Attic Angel Nursing Home residents who were Hospice patients. Under this protocol, the HospiceCare nurse obtained the patient orders and relayed them to the nursing home staff for implementation.
6. Ms. Yazici called DM's attending physician for a re-order of Morphine Sulfate immediate release ("MSIR"), which

had been prescribed by the attending physician prior to DM's hospitalization. Ms. Yazici was informed that DM's attending physician was out of the office and would be paged.

7. In response to reports of increased pain being experienced by DM, Ms. Yazici authorized administration of MSIR in anticipation of the attending physician's return call and order. Ms. Yazici did not have a physician's order for administration of the MSIR and she did not have independent prescribing authority to order medications. DM's attending physician declined to issue a medication order to cover Ms. Yazici's authorization of the MSIR administration.

8. Lisa Rogers, a registered nurse who was on duty at the nursing home, administered one dose of MSIR to DM based upon Ms. Yazici's authorization. This medication administration was subsequently authorized by an order obtained from the discharging hospital.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in this matter pursuant to s. 441.07 (1), Stats., and ch. N 7, Wis. Adm. Code.

2. By having engaged in conduct as described in Findings of Fact 7 and 8, herein, respondent violated s. 441.07 (1) (b), and 448.03 (1) (a), Stats., and s. N 7.04 (5), Wis. Adm. Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that based upon the total circumstances of this case, no discipline shall be imposed.

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EXPLANATION OF VARIANCE

In her response to the Division of enforcement's Requests for Admissions during discovery in this matter (admitted as Exhibit 2), Ms. Yazici responded to the following request for admission in the following manner:

Request for Admission: In response to reports of increased pain being experienced by the resident, Ms. Yazici authorized administration of MSIR in anticipation of the attending physician's return call and order.

Response: I did not authorize the MSIR to be given at this time. Yes, the nurse came to the nurses station and reported D.M. was having pain. Lisa and I both reviewed the orders and told the nurse we didn't have a phone call from the doctor yet. Upon the nurse reporting the patient was having pain, I told her to try giving her Percocet® to relieve the pain since we didn't have the necessary orders.

The nurse returned and informed me that the patient was unable to swallow the Percocet® and what should she do. Knowing I had no orders in hand for dissolvable MSIR, I told her to try crushing the Percocet® and giving it with some kind of liquid. I then placed another call to the clinic and told Dr. Loomans' nurse that we needed orders right away for D.M. since she was unable to swallow and could she please have Dr. Loomans call us with orders. I informed her of the need for MSIR since Dr. Loomans had ordered this medication for her in the past and was effective in pain control. The clinic nurse understood the urgency of the situation and said she would tell Dr. Loomans right away.

The nurse who had given the Percocet® returned and stated she had difficulty taking the crushed Percocet® and was having increasing pain. There were no other orders available for pain medication that she was able to swallow; I had no idea who had written the discharge orders from the U.W. since the signature was illegible, and the attending physician was not returning my calls. Under the clear impression that Dr. Loomans was going to call the nursing home with further orders, I told Lisa to give an MSIR for pain and that I was sure the physician would renew this medication since she had ordered it for her in the past. I was a nurse in a horrible situation who had to weigh the needs of this patient in pain vs. a physician who would not respond to her needs.

As the body charged with responsibility for enforcing the statutes and rules relating to nursing, the Board of Nursing may not condone its licensees practicing beyond the scope of their licenses. Accordingly, the board has left in place the finding of violation proposed by the administrative law judge. It is clear, however, that Ms. Yazici found herself in an untenable situation, and decided to place the welfare of her patient above her own self-interest. This board cannot in good conscience discipline her for doing so.

Dated this 19th day of July, 2000.

STATE OF WISCONSIN

BOARD OF NURSING

by _____

Ann Brewer

Chair

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