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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

HEIDI S. FURYK, R.N.

AMENDED FINAL DECISION

AND ORDER

RESPONDENT

LS0106291NUR

On April 8, 2002, the Board of Nursing filed its Final decision and Order in this matter. The board's Order required in part as follows:

For a period of one year following the reinstatement of her license, Ms. Furyk shall be responsible for submission to the board of written reports prepared by her nursing employer setting forth Ms. Furyk's activities and performance in her employment.

Through a scrivener's error, the Order did not specify the required frequency of the work reports. In its deliberations on April 4, the board determined the required frequency to be two reports per month. The board's Order is therefore hereby amended to add that specification.

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

Heidi S. Furyk

P.O. Box 62

McNaughton, WI 54543

Board of Nursing

P.O. Box 8935

Madison, WI 53708-8935

Department of Regulation & Licensing

Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

A hearing in the above-captioned matter was held on December 10 and 11, 2001, before Administrative Law Judge Jacquelynn B. Rothstein. The Division of Enforcement appeared by attorney Claudia Berry Miran. Ms. Furyk appeared *pro se*.

The Administrative Law Judge (ALJ) filed her Proposed Decision and Order on February 19, 2002, and both parties filed objections to the Proposed Decision. Oral arguments on the objections were presented to the board by Ms. Furyk and Ms. Miran on April 4, 2002, and the board considered the matter on that date.

Based upon the entire record in this case, the Board of Nursing adopts as its Final Decision and Order in this matter the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Heidi S. Furyk, R.N., (dob 7/16/62) is a Wisconsin registered nurse. Her license was granted on March 24, 1993. Ms. Furyk's current address is P.O. Box 62, McNaughton, Wisconsin.
2. Rose Mewes, aged 83, was admitted to Riverview Health and Rehabilitation Care Center located in Tomahawk, Wisconsin, on July 22, 1998. At the time of her admission she had diagnoses of intertrochanteric hip fracture, congestive heart failure, diabetes mellitus, post-op anemia, elevated prothrombin time, atrial fibrillation, and recent dyspepsia/peptic ulcer.
3. During the evening nursing shift of July 24, 1998, Ms. Furyk was the nurse responsible for Mrs. Mewes' care.
4. Mrs. Mewes' plan of care dated July 22, 1998, noted that she could be at risk for hypovolemia. The plan indicated that Mrs. Mewes should therefore be assessed as needed for signs or symptoms of bleeding.
5. On July 23, 1998, at 5:00 a.m., Mrs. Mewes' blood pressure was 148/64, her pulse was 68 and her respiration rate was 19. At 10:00 p.m. that same day, her blood pressure was 138/62, her pulse was 66, and her respiration rate was 20.
6. At or about 6:45 p.m. on July 24, 1998, Keri Swan, C.N.A., and Julie Mortensen C.N.A., called Ms. Furyk into Mrs. Mewes's room because they had seen blood on Mrs. Mewes' undergarments.
7. Ms. Furyk then sent one of the certified nursing assistants (C.N.A.) to get Nurse Tari Gutbrod, the other registered nurse on duty, to assist in assessing the bleeding. Nurse Gutbrod's nursing note indicates that there was copious amount of frank, red blood (approximately one pint) from the rectum and that Mrs. Mewes complained of "burning all through my rectum."
8. At approximately 7:00 p.m. that same evening, Ms. Furyk notified the physician on call that Mrs. Mewes was bleeding rectally. The physician ordered a complete blood count and a prothrombin time.
9. Fifteen minutes later, Mrs. Mewes' vital signs were taken. They indicated that her blood pressure was 104/50; her apical pulse was 96 and irregular, with respirations at 16.
10. At or about the same time, Nurse Gutbrod drew Mrs. Mewes' blood for testing and had it transported to Sacred Heart Hospital Emergency Room. The blood samples were delivered at or about 7:30 p.m.
11. At approximately 7:40 p.m., one of the certified nursing assistants reported that Mrs. Mewes had additional bleeding.
12. Nurse Furyk called Mrs. Mewes' daughter, Rose Lynd, at approximately 8:00 p.m. to inform her of the rectal bleeding and to discuss whether her mother had any history of gastric or rectal bleeding. Nurse Furyk also told Ms. Lynd what lab tests had been ordered, but did not discuss possible courses of action with her.
13. After concluding her telephone conversation with Ms. Lynd, Nurse Furyk distributed medication to various patients for at least one hour.
14. At about 9:00 p.m. that same evening, C.N.A. Keri Swan reported to Nurse Furyk that Mrs. Mewes had continued bleeding.
15. Ms. Furyk called the physician on call at about 9:20 p.m. to report Mrs. Mewes' lab results. During that call, she also provided Mrs. Mewes' vital signs, which were two hours old, but did not inform the physician of the approximate amount of blood loss Mrs. Mewes' had lost by that time.
16. In response, the physician ordered that Mrs. Mewes' Coumadin dose be held and that he be notified if her systolic blood pressure fell below 90.
17. At about 9:50 p.m., Ms. Furyk noted in Mrs. Mewes' chart that she continued bleeding dark, red blood from the rectum in a "fair amount," approximately "two cups".
18. At 10:50 p.m., Ms. Furyk indicated in her nursing notes that Mrs. Mewes continued to bleed from the rectum and estimated the blood loss to have been approximately eight cups during her shift.
19. From Approximately 7:30 p.m. to shortly after 9:00 p.m., and from approximately 9:30 p.m. until the end of her shift, Ms. Furyk did not personally check Mrs. Mewes. Rather, the C.N.A.'s checked on Mrs. Mewes about every 15 minutes and reported to Ms. Furyk.
20. Ms. Furyk began her end-of-shift report to Nurse Kelly Fisher at approximately 10:45 p.m. Mrs. Mewes was the last resident about whom Ms. Furyk reported.
21. Nurse Fisher went to assess Mrs. Mewes at about 11:40 p.m.. At that time, she discovered Mrs. Mewes had no blood pressure, pulse, or respirations.

22. The Coroner's Report identifies Mrs. Mewes' cause of death as hemorrhage.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in this matter pursuant to §441.07, Wis. Stats.
2. Ms. Furyk, by having failed to promptly recognize and appropriately respond in a timely manner to Mrs. Mewes' deteriorating medical condition, engaged in unprofessional conduct contrary to §441.07 (1) (d), Wis. Stats., and §N 7.04, Wis. Admin. Code.
3. Ms. Furyk, by having failed to observe the conditions, signs and symptoms of Mrs. Mewes, record them, and report significant changes to the appropriate persons, engaged in negligence contrary to §441.07 (1) (c), Wis. Stats., and §N 7.04 (1) (c), Wis. Admin. Code.

ORDER

NOW THEREFORE IT IS ORDERED that that the license of Heidi S. Furyk to practice as a registered nurse in the State of Wisconsin is hereby suspended for a period of six months from the date hereof.

IT IS FURTHER ORDERED that following the period of suspension, Ms. Furyk may apply for reinstatement of her license. Her application must include the results of a psychological assessment carried out by a health care provider satisfactory to the board. The assessment shall incorporate findings related to Ms. Furyk's ability to manage anger, and the opinion of the assessor regarding whether Ms. Furyk may safely and competently resume the practice of nursing. Upon receipt of a satisfactory assessment, the board shall reinstate Ms. Furyk's license, which shall be limited for a period of five years to impose the following terms and conditions.

- The term of the license shall be for three months. Ms. Furyk may apply for additional three month renewals of the license, which shall be granted upon satisfactory evidence of compliance with the terms and conditions set forth below. The Board may without hearing deny an application for renewal of the license upon receipt of information that Ms. Furyk has violated any of the terms or conditions of this Order. If the Board denies the petition by the Ms. Furyk for an extension, the Board shall afford an opportunity for hearing in accordance with the procedures set forth in ch. RL 1, Wis. Adm. Code, upon timely receipt of a request for hearing. Upon a showing by Ms. Furyk of successful compliance for a period of five years of active practice with the terms of this order, the Board shall grant a petition by Ms. Furyk for return to full licensure.
- Ms. Furyk shall participate in individual and/or group therapy sessions for the first year of the limited license upon a schedule as recommended by the therapist, but not less than twice per month. After the first year, this requirement for therapy sessions may be modified upon written petition, and a written recommendation by the therapist expressly supporting the modifications sought.
- Ms. Furyk shall practice only under the direct supervision of another registered nurse, shall not function as a charge nurse, and shall refrain from practice in a home health setting or as a pool nurse.
- For a period of one year following the reinstatement of her license, Ms. Furyk shall be responsible for submission to the board on a twice per month basis of written reports prepared by her nursing employer setting forth Ms. Furyk's activities and performance in her employment.
- Within 12 months of the date hereof, Ms. Furyk shall submit documentation of completion of at least eight hours of continuing nursing education in the areas of patient assessment and delegation of nursing tasks to assistive personnel.

IT IS FURTHER ORDERED that one-half (½) of the assessable costs of this proceeding shall be imposed upon Heidi S. Furyk, pursuant to §440.22, Wis. Stats.

EXPLANATION OF VARIANCE

The board has accepted the ALJ's Findings of Fact and Conclusions of Law in their entirety with two exceptions. The prosecutor in her written objections to the proposed decision recommended that the board include in its Findings of Fact the findings that from approximately 7:30 p.m., to shortly after 9:00 p.m., and from approximately 9:30 p.m. until the end of her shift, Ms. Furyk did not personally check Mrs. Mewes; and that the C.N.A.'s checked on Mrs. Mewes about every 15 minutes and reported to Ms. Furyk. These findings are fully supported in the record and tend to clarify the series of events relevant to this matter. They have therefore been added at Finding of Fact #19. Additionally, the ALJ's finding was that Ms. Furyk began her end-of-shift report to Nurse Kelly Fisher at approximately 11:20 p.m. Ms. Miran correctly points out that the evidence of record is that Ms. Furyk began her end-of-shift report to Nurse Fisher at approximately 10:45 p.m. That correction may be found at Finding of Fact #20.

The ALJ's recommendation was that Ms. Furyk's license be revoked. This is not an unreasonable suggestion based upon the seriousness of the misconduct and the fact that throughout the course of this proceeding Ms. Furyk declined to concede that she had done anything wrong. Even at the oral arguments before the board, Ms. Furyk's principal argument was that the blame in this matter should be placed on the policies of the nursing home where she was employed, and on problems with the nursing home industry in general. Nonetheless, the board

concludes that revocation is not required in this case to meet the disciplinary objectives of the protection of the public by promoting the rehabilitation of the licensee and by deterring other licensees from engaging in similar misconduct. *State v. Aldrich*, 71 Wis. 2d 206 (1976). Rather, the board has suspended the license for six months in furtherance of the deterrence objective, and has limited the license for five years thereafter. The limitations imposed are specifically designed to accomplish the rehabilitation of this licensee through therapy, education and monitoring of her practice.

Finally, the ALJ recommended that the full costs of the proceeding be assessed against the respondent. Instead, the board has exercised its discretion and ordered that one-half of the costs be assessed. In a matter as protracted as this one, the costs are presumed to be substantial, and assessing the full costs against the respondent may well have the unintended result of significantly impacting her ability to resume her practice. This is so because § 440.22(3), Stats., requires that the board may not restore, renew or otherwise issue any credential to the respondent until she has made payment to the department in the full amount assessed, together with any accrued interest. The board chooses to lessen that possible impact.

Dated this 10th day of April, 2002.

STATE OF WISCONSIN
BOARD OF NURSING

Linda M. Sanner, R.N.
Chair