

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE :
DISCIPLINARY PROCEEDINGS :
AGAINST : **FINAL DECISION AND ORDER**
:
DANITA J. CHESIR, R.N. :
RESPONDENT : **LS0202272NUR**

Division of Enforcement Case No. 01 NUR 112

The parties to this action for the purposes of section 227.53 of the Wisconsin statute are:

Danita J. Chesir
5555 N 31st Street
Milwaukee, WI 53209

Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Danita J. Chesir (DOB 04-03-62) is duly licensed as a registered nurse in the state of Wisconsin (license #30-101366). This license was first granted on April 5, 1989.
2. Chesir's most recent address on file with the Wisconsin Board of Nursing is 5555 N. 31st Street, Milwaukee, WI 53209.

3. At all times relevant to the incident involved herein, Chesir was the night shift charge nurse at Milwaukee Care Center, a licensed nursing home.

4. On February 13, 2001, the Director of Nursing (DON) arrived at the facility at approximately 3:40 a.m. The DON indicated that she entered the front door and the alarm sounded, but none of the night staff responded to the alarm. The DON found Chesir and the certified nursing assistants asleep in the facility.

5. The DON walked through the units and found a patient trying to get out of bed, another patient calling for help to get to the toilet, and several other patients either requesting help or awake in their rooms and televisions turned on. One patient was found asleep sitting in an upright position on a mat on the floor.

6. Chesir admitted that she may have "dozed" off during part of her shift. She indicated that she had a difficult day, lack of sleep the previous night and had taken pain medication. Chesir further admitted that she made the mistake of not calling in sick instead of coming to work that shift.

7. The facility submitted an incident report of caregiver abuse or neglect to the State of Wisconsin, Department of Health and Family Services, (DHFS) on February 19, 2001. DHFS referred the incident report to the Department of Regulation and Licensing, which has regulatory authority over Chesir's nursing license.

8. Prior to the incident at Milwaukee Care Center, Chesir was disciplined by her former employer, Marion Catholic Nursing Home, for being under the influence of alcohol and falling asleep while on duty. Chesir was tested positive for alcohol at the time of the incident.

9. On January 16, 1997, Chesir signed a Reinstatement Agreement with Marion Catholic Nursing Home requiring that she submit to random alcohol and drug testing screens for 24 months and refer herself to the employees' assistance program. On February 20, 1997, Chesir was reported for a probable cause alcohol screen based upon the smell of alcohol on her breath, unsteady gait and impaired judgment. Chesir refused to submit to testing and left the facility. Chesir was discharged for violating the terms of her reinstatement agreement and patient abandonment.

10. In resolution of this matter, Chesir consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter, pursuant to sec. 441.07, Wis. Stats.
2. The Wisconsin Board of Nursing is authorized to enter into the attached stipulation, pursuant to sec. 227.44(5), Wis. Stats.
3. By the conduct described in paragraphs above, Danita J. Chesir, has violated Wisconsin Administrative Code § N7.03 (2) and § N 7.04 (4).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Respondent Danita J. Chesir, R.N. is LIMITED as follows:

Mental Health Assessment and Treatment

1. Within ninety (90) days from the effective date of this Order, Respondent shall submit -documentation of a current Mental Health assessment from a health care provider attesting to Respondent's ability to safely and competently practice as a registered nurse. To be considered current, the assessment shall occur within thirty (30) days from the date of its submission. The assessment shall reflect that the provider conducting the testing has received and reviewed copies of this order and the investigative materials regarding Respondent's misconduct.

a. Respondent shall obtain Board approval of the assessor prior to the assessment being performed.

b. The assessor shall submit a written report of his or her findings directly to the Board, including: ; diagnosis of Respondent's condition (if any); recommendations for treatment; an evaluation o Respondent's level of cooperation in the assessment process; ability to work and work restriction recommendations; and Respondent's prognosis.

c. If the assessment referred to above indicates a need for mental health treatment, Respondent shall initiate and participate in individual and/or group therapy sessions upon a schedule as recommended by ; mental health care provider acceptable to the Board. As a part of her treatment, Respondent must attend such therapy on a schedule as recommended by her mental health care provider; attendance, however shall be required at least two (2) times per month. The mental health care provider shall submit quarterly reports directly to the Department Monitor on the approved report forms.

d. Respondent shall timely and successfully comply with any recommended treatment or restrictions by he mental health care provider. The Board shall retain the discretion, upon the review of the assessment report, to impose additional treatment parameters to ensure that Respondent is capable of safely and competently practicing as a registered nurse.

Department Monitor

2. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including receiving and coordinating all reports and petitions, and requesting additional monitoring and surveillance. The Department Monitor may be reached as follows:

Department Monitor

Department of Regulation and Licensing

Division of Enforcement

PO Box 8935

Madison, WI 53708-8935

FAX (608) 266-2264 TEL. (608) 267-3817

Expenses

3. Respondent shall be responsible for all costs and expenses incurred in conjunction with or associated with

compliance with the terms of this Order.

Practice Limitations and Reporting Requirement

4. Respondent shall practice nursing only at pre-approved work sites and only under the general supervision of a registered professional nurse or other licensed health care professional approved by the Board or its designated agent. Respondent is strictly prohibited from working the third shift, from the hours of 11:00 p.m. to 6:00 a.m., at any time during the period of her limited license. Respondent's direct supervisor shall submit quarterly work reports to the Department Monitor on Respondent's work performance which address whether there have been any further incidents of Respondent dozing or sleeping on the job or use of alcohol or controlled substances while on duty.

Change in Address or Work Status

5. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.
6. Respondent shall furnish a copy of this Order to all present employers immediately upon issuance of this Order, and to any prospective employer when Respondent applies for employment as a registered nurse.

Continuing Education

7. Within one [1] year from the effective date of this Order, Respondent shall submit proof of successfully completing eight [8] continuing education credits in Legal Aspects of Nursing. The educational course shall be pre-approved by a member or designated agent of the Board. Respondent shall submit certification from the sponsoring organization and a statement signed by Respondent verifying her attendance and completion of the educational requirements. Respondent shall be responsible for all expenses incurred for the education required by this order.

Required Reporting by Respondent

8. Respondent is responsible for compliance with all of the terms and conditions of this Final Decision and Order and Respondent shall not engage in the practice of nursing in any capacity unless in full compliance with any rehabilitation and treatment programs specified and approved under this Order.
9. It is the responsibility of Respondent to promptly notify the Department Monitor of any suspected violation of any of the terms and conditions of this Order, including any failures of the Monitoring facility, laboratory or collection sites to conform to the terms and conditions of this Order.

Petition for Removal of Limitations

10. Upon full, complete and continuous compliance with the terms of this order for a period of one [1] year, Respondent may petition for a return to full and unrestricted licensure.

Summary Suspension

IT IS FURTHER ORDERED that if Respondent fails to timely comply with the requirements set forth in the paragraphs above, her license to practice as a registered nurse shall be **SUSPENDED**, without further notice or hearing, until she has complied with the terms of this Order. Violation of any of the terms of this Order may be

construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license pursuant to the procedures set forth in Wis. Admin. Code RL Ch. 6. The Board in its discretion may, in the alternative, impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.

IT IS FURTHER ORDERED that if Respondent fails to fully and completely comply with all terms and conditions set forth above or if the Department receives a subsequent credible allegation against Respondent of abuse, neglect or misappropriation, the Department Monitor shall without further notice or hearing notify the Wisconsin Department of Health and Family Services that the findings set forth in this Order shall thereafter constitute an agency finding of neglect for the purposes of secs. 48.685 and 50.065, Wis. Stats. Respondent shall then REFRAIN from any nursing employment in any facility licensed by the Wisconsin Department of Health and Family Services until such time as Respondent successfully completes a rehabilitation review administered by DHFS.

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

WISCONSIN BOARD OF NURSING

By: Linda Sanner

9-5-02

A Member of the Board

Date