

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
KATHLEEN MAJCHEREK, R.N., :
RESPONDENT. : LS0610124NUR

Division of Enforcement Case # 05 NUR 377

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

Kathleen Majcherek, R.N.
9000 Sand Lake Road
Harshaw, WI 54529

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Board of Nursing
Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

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 of Nursing. The Board has reviewed the attached Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Kathleen Majcherek, R.N., (DOB 01/29/1951) is duly licensed as a registered nurse in the State of Wisconsin (license # 30-101165). This license was first granted on February 1, 1989.
2. Respondent's most recent address on file with the Wisconsin Board of Nursing is 9000 Sand Lake Road, Harshaw, Wisconsin, 54529.
3. At all relevant times, Respondent worked as an R.N. for Ministry Home Care, Inc.
4. Patient T.A. had a history of noncompliance with home health visits and was in danger of losing her Medicare certification as a result.
5. On or about October 20, 2005, Respondent was assigned to perform a Medicare recertification assessment

of patient T.A. at T.A.'s home. When Respondent arrived, patient T.A. was not home. Respondent proceeded to document a recertification assessment of the patient, including vital signs and other physical assessment information, without seeing the patient. Respondent then contacted the patient's physician with the false information and obtained a recertification for the patient.

6. On October 24, 2005, the agency learned that patient T.A. had been in the hospital at the time of the alleged assessment.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction to act in this matter, pursuant to Wis. Stat. § 441.07, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. The conduct described in paragraph 5 above constitutes a violation of Wisconsin Administrative Code §§ N 7.04(6), N 6.03 and N 6.05, and subjects Respondent to discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

IT IS ORDERED:

1. Kathleen Majcherek, R.N. is REPRIMANDED.
2. The license of Kathleen Majcherek, R.N. to practice nursing in the State of Wisconsin, and her privilege to practice pursuant to the Multi-State Nursing Compact, is LIMITED as follows:
 - (a) Respondent, at her own expense, shall complete six hours of pre-approved continuing education in nursing ethics within 90 days of the date of this Order. Respondent is responsible for finding an appropriate course and submitting the course information to the Board for approval prior to taking the course and in sufficient time to obtain board approval within the 90 day time frame, taking into account the board's meeting schedule. Upon submission of satisfactory proof of completion of the required course, Respondent's license will return to full status.
 - (b) Pursuant to Uniform Nursing Licensure Compact regulations, Respondent's nursing practice is limited to Wisconsin during the pendency of this limitation and any subsequent related limitations. This requirement may be waived only upon the prior written authorization of both the Wisconsin Board of Nursing and of the regulatory board in the state in which Respondent proposes to practice.
2. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of One Hundred Fifty Dollars (\$150.00). Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 267-3817
Fax (608) 266-2264

3. In the event that Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, Respondent's license (#30 101165) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

4. This Order is effective on the date of its signing.

Board of Nursing

By: Marilyn Kaufmann
A Member of the Board

10/12/06

Date

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 : STIPULATION
KATHLEEN MAJCHEREK, R.N., : LS# _____
RESPONDENT. :

Division of Enforcement Case # 05 NUR 377

Kathleen Majcherek, R.N., personally on her own behalf, and Jeanette Lytle, attorney for the Department of Regulation and Licensing, Division of Enforcement, stipulate:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (case # 05 NUR 377). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation she voluntarily and knowingly waives 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, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has been provided an opportunity to obtain the advice of legal counsel prior to signing this stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board of Nursing. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

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 consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board of Nursing ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or her attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Kathleen Majcherek, R.N..
9000 Sand Lake Road
Harshaw, WI 54529

Date

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

Date