

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
CHRISTINA M. HONDLIK, L.P.N., : : LS0702232NUR
RESPONDENT. : :

Division of Enforcement Case No. 04NUR218

The State of Wisconsin, Board of Nursing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing.

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

Dated this 28th day of February, 2008.

Kaufmann
Board

Marilyn
Member of the
Board of Nursing

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS

:
:
: **PROPOSED**
: **FINAL DECISION AND ORDER AGAINST**

:
:
: CHRISTINA M. HONDLIK, L.P.N.,
: RESPONDENT.

: Case No. LS-0702232- NUR
:
:

[Division of Enforcement Case No. 04 NUR 218]

PARTIES

The parties in this matter for purposes of Wis. Stat. § 227.53 are:

Complainant:

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Ave.
Madison, WI 53708-8935

Respondent:

Christina M. Hondlik, L.P.N.
4722 Setting Sun Trlway
Danbury, WI 54830

Disciplinary Authority:

Board of Nursing
1400 East Washington Ave.
Madison, WI 53703

PROCEDURAL HISTORY

This is a disciplinary action against Respondent Christina M. Hondlik, L.P.N. On February 23, 2007, a Complaint and Notice of Hearing was filed and served on the Respondent by certified and first class mail. The Respondent has failed to file an answer or other responsive pleading. The Complainant filed a Motion for Default on May 23, 2007. This Proposed Decision is being issued based on the record and without a hearing.

FINDINGS OF FACT

1. Christina M. Hondlik, L.P.N., (DOB 02/09/1971) was formerly licensed as a practical nurse in the State of Wisconsin (license # 31-301878). This license was first granted on November 18, 1998, and expired on April 30, 2005. Pursuant to Wis. Stat. § 440.08(3), Respondent has a right to renew her license upon payment of fees until April 30, 2010.

2. Respondent's most recent address on file with the Wisconsin Board of Nursing is 4722 Setting Sun Trailway, Danbury, Wisconsin, 54830.

3. In August, 2004, Respondent worked as a licensed practical nurse (LPN) at Capeside Cove nursing home.

4. On or about August 5, 2004, at approximately 9:40 a.m., Respondent received a written discipline from the director of nursing, for failure to follow facility policy. Respondent disagreed with this discipline and believed it to be unfair.

5. At approximately 10:00 a.m. that day, in the middle of her shift, Respondent went to the office of the scheduling coordinator and handed her the keys to the medication cart and narcotics lockbox. The scheduling coordinator was not authorized to have these

keys and told Respondent to give them to the director of nursing, and to talk to someone if she was leaving.

6. Respondent then left the facility, walking past the director of nursing without comment, at 10:15 a.m. She did not leave any report or direction for other nurses. She did not ensure that the residents' needs would be met in her absence.

7. The next day Respondent called the nursing home administrator, stating that she had had a panic attack the day before which resulted in her leaving the facility. Her medical records confirm that she had a panic attack, as well as generalized anxiety.

8. On February 23, 2007, the Department of Regulation and Licensing sent by certified and first class mail the Notice of Hearing and Complaint in this case. The Complaint was sent to Christina M. Hondlik at an address believed to be her current address, 9205 Glenwater Drive, Charlotte, NC 28262. The certified mailing was returned but there is no evidence in the record that the first class mailing was returned.

9. On April 9, 2007, the Department of Regulation and Licensing sent by certified and first class mail the Complaint in this case. The Complaint was sent to Christina M. Hondlik at the last address on file with the Department of Regulation and Licensing, 4722 Setting Sun Trailway, Danbury, WI 54830. Both of the mailings were returned.

10. On May 24, 2007, the Department of Regulation and Licensing sent by certified and first class mail the Motion and Motion for Default and related documents. The documents were sent to both addresses known to the Department stated in 8 and 9 above. All four of the mailings were returned.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction to act in this matter, pursuant to Wis. Stat. § 440.03 (1) and 441.07.

2. By failing to file an Answer as required by Wis. Admin. Code § RL 2.09, Respondent is in default under Wis. Admin. Code § RL 2.14, and the facts stated in the Complaint are admitted. Wis. Admin. Code § RL 2.09(3). Therefore the Board of Nursing may make findings and enter an order based solely on the facts in the Complaint.

3. The conduct described in paragraphs 4-6 above constitutes a failure to provide basic care as required under the standards of practice for an LPN as defined by Wisconsin Administrative Code § N 6.04(b). Failure to provide basic care constitutes negligence which is a violation of Wisconsin Administrative Code § N 7.03(1)(a) and Respondent is therefore subject to discipline pursuant to Wis. Stat. § 441.07(1)(c).

5. The conduct described in paragraph 7 above constitutes mental incompetency as defined by Wisconsin Administrative Code § N 7.03(3) and Respondent is therefore subject to discipline pursuant to Wis. Stat. § 441.07(1)(c).

6. The Respondent received proper notice of this action from the Department of Regulation and Licensing when it mailed a copy of the Notice of Hearing and Complaint to the Respondent's last known address. Wis. Stats. § 440.11(1) and (2) and Wis. Admin. Code § RL 2.08(1).

ORDER

THEREFORE, IT IS ORDERED that the license of Respondent Christina M. Hondlik to practice as a Licensed Professional Nurse in the State of Wisconsin is **REPRIMANDED**.

IT IS FURTHER ORDERED that Respondent Christina M. Hondlik pay the costs of this proceeding, as authorized by Wis. Stat., § 440.22 (2), Stats., and Wis. Admin. Code § RL 2.18, Wis. Admin. Code. 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

IT IS FURTHER ORDERED that the license of Christina M. Hondlik may not be renewed until the costs have been paid.

IT IS FURTHER ORDERED that the license of Christina M. Hondlik may not be renewed unless she submits with her application for renewal, a current mental health evaluation, performed by a provider selected by the Department Monitor, that finds her qualified to act as a LPN.

IT IS FURTHER ORDERED that this Order is effective on the date of its signing.

APPLICABLE LAW

440.11 Change of name or address.

(1) An applicant for or recipient of a credential who changes his or her name or moves from the last address provided to the department shall notify the department of his or her new name or address within 30 days of the change in writing or in accordance with other notification procedures approved by the department.

(2) The department or any examining board, affiliated credentialing board or board in the department may serve any process, notice or demand on the holder of any credential by mailing it to the last-known address of the holder as indicated in the records of the department, examining board, affiliated credentialing board or board.

441.07 Revocation.

(1) The board may, after disciplinary proceedings conducted in accordance with rules promulgated under [s. 440.03 \(1\)](#), revoke, limit, suspend or deny renewal of a license of a registered nurse, a nurse-midwife or a licensed practical nurse, may revoke, limit, suspend or deny renewal of a certificate to prescribe drugs or devices granted under [s. 441.16](#), or may reprimand a registered nurse, nurse-midwife or licensed practical nurse, if the board finds that the person committed any of the following:

(c) Acts which show the registered nurse, nurse-midwife or licensed practical nurse to be unfit or incompetent by reason of negligence, abuse of alcohol or other drugs or mental incompetence.

(d) Misconduct or unprofessional conduct.

RL 2.08 Service and filing of complaint, notice of hearing and other papers.

(1) The complaint, notice of hearing, all orders and other papers required to be served on a respondent may be served by mailing a copy of the paper to the respondent at the last known address of the respondent or by any procedure described in s. 801.14(2), Stats. Service by mail is complete upon mailing.

RL 2.09 Answer

(1) An answer to a complaint shall state in short and plain terms the defenses to each cause asserted and shall admit or deny the allegations upon which the complainant relies. If the respondent is without knowledge or information sufficient to form a belief as to the truth of the allegation, the respondent shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the allegations denied. The respondent shall make denials as specific denials of designated allegations or paragraphs but if the respondent intends in good faith to deny only a part or a qualification of an allegation, the respondent shall specify so much of it as true and material and shall deny only the remainder.

(2) The respondent shall set forth affirmatively in the answer any matter constituting an affirmative defense.

(3) Allegations in a complaint are admitted when not denied in the answer.

(4) An answer to a complaint shall be filed within 20 days from the date of service of the complaint.

RL 2.14 Default. If the respondent fails to answer as required by [s. RL 2.09](#) or fails to appear at the hearing at the time fixed therefore, the respondent is in default and the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence. The disciplinary authority may, for good cause, relieve the respondent from the effect of such findings and permit the respondent to answer and defend at any time before the disciplinary authority enters an order or within a reasonable time thereafter.

N 6.04 Standards of practice for licensed practical nurses.(1) Performance of acts in basic patient situations, the L.P.N. shall, under the general supervision of an R.N. or the direction of a physician, podiatrist, dentist or optometrist:

(b) provide basic nursing care;

N 6.04(3) “Mental incompetency” is evidenced by conduct which reflects an impaired ability of the licensee to safely or reliably perform duties. “Mental incompetency” also includes, but is not limited to, adjudication of incompetence by a court of law.

OPINION

The question in this case is whether discipline should be imposed on Christina M. Hondlik, and if yes, what kind of discipline. It is the opinion of this administrative law judge that Ms. Hondlik’s license to practice practical nursing should be reprimanded.

It is well established that the objectives of professional discipline include the following: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*. 41 Wis. 2d 481, 485 (1969).

Ms. Hondlik’s action in leaving the Capeside Cove nursing home after having been disciplined by the director of nursing was a violation of the standards of practice of her profession. She did not notify the director of nursing that she was leaving nor did she make any arrangements for the continuity of care for her patients. By doing that she failed to provide basic care to her patients. Continuity of care is a basic level of service that must be provided to patients to ensure that the patients receive all required and ordered services.

The day after abruptly leaving the nursing home, Ms. Hondlik reported to the nursing home administrator that she left the facility because she had had a panic attack. That was confirmed by her medical records which said that she also had generalized anxiety. Her admission indicates that she was not mentally capable of performing the duties of an LPN. The panic attack must have been fairly severe to induce Ms. Hondlik to abandon her post. An LPN must be a steady and calm person to deal with the stresses of the job and to handle emergencies that arise. Ms. Hondlik’s actions show that she was not capable of dealing with stressful or emergency situations at the time of the incident. Her actions reflected an impaired ability to safely or reliably perform the duties of an LPN.

When determining what discipline is appropriate for Ms. Hondlik I look at the severity

of her violations. Although Ms. Hondlik abandoned her post, she did give the keys to the medication cart and the narcotics lockbox to the nursing home's scheduling coordinator before she left. She did take that precaution to ensure that patients did not have access to medications even while she was having a panic attack.

Also when Ms. Hondlik gave the keys to the coordinator, the coordinator inferred that Ms. Hondlik might be leaving the facility because she suggested that Ms. Hondlik tell someone if she was leaving. Ms. Hondlik did not therefore leave the facility without anyone knowing that she might be leaving. Ms. Hondlik should have told the director of nursing that she was leaving but that would have been difficult for Ms. Hondlik to do because Ms. Hondlik's panic attack was caused by an interaction with the director of nursing.

The facts in this case do not show Ms. Hondlik as a person who willfully left her post with no regard for her patients. They do however show that Ms. Hondlik was not capable of performing her duties because of her mental health. This case does not merit a harsh penalty but it does require that steps be taken to protect the public if Ms. Hondlik applies for the renewal of her license. Ms. Hondlik is not currently licensed. Her license expired on April 30, 2005, and she has until April 30, 2010, to renew her license.

A reprimand against her license is appropriate in this case because she did take some mitigating action and she contacted the nursing home administrator the day after she left the home which was an admission that she had acted inappropriately. There are also no facts in the complaint that indicate that any harm was caused by her leaving.

It is also appropriate to put limitations on her license renewal rights. Ms. Hondlik is subject to discipline because she abandoned her post as a result of not being mentally capable of dealing with the stresses of her job. Therefore the requirement that she submit, with an application for renewal, a current mental health evaluation from a provider selected by the Department Monitor, showing that she is competent to perform as an LPN is an appropriate limitation because it will ensure that she is mentally capable to perform her duties and it will protect the public.

COSTS

Section 440.22 (2), Stats, provides in relevant part as follows:

In any disciplinary proceeding against a holder of a credential in which the department or an examining board, affiliated credentialing board or board in the department orders suspension, limitation or revocation of the credential or reprimands the holder, the department, examining board, affiliated credentialing board or board may, in addition to imposing discipline, assess all or part of the costs of the proceeding against the holder. Costs assessed under this subsection are payable to the department.

The presence of the word "may" in the statute is a clear indication that the decision whether to assess the costs of this disciplinary proceeding against the respondent is a discretionary decision on the part of the Board of Nursing, and that the board's discretion extends to the decision whether to assess the full costs or only a portion of the costs.

The ALJ's recommendation that the full costs of the proceeding be assessed is based on two factors. First, the Department of Regulation and Licensing is a "program revenue" agency, which means that the costs of its operations are funded by the revenue received from its licensees. Moreover, licensing fees are calculated based upon costs attributable to the regulation of each of the licensed professions, and are proportionate to those costs. This budget structure means that the costs of prosecuting cases for a particular licensed profession will be borne by the licensed members of that profession. It is fundamentally unfair to impose

the costs of prosecuting a few members of the profession on the vast majority of the licensees who have not engaged in misconduct. Rather, to the extent that misconduct by a licensee is found to have occurred following an evidentiary or default hearing, that licensee should bear the costs of the proceeding.

Dated this 10th day of January, 2008

Respectfully Submitted

Peggy E. Wichmann
Administrative Law Judge