

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : Case No. LS 0802182 NUR  
EILEEN K. LEE, R.N., :  
RESPONDENT. :

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INTERIM ORDER OF SUMMARY SUSPENSION

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[Division of Enforcement Cases # 05 NUR 235 & 05 NUR 289]

The Petition for Summary Suspension of February 13, 2008, was noticed to be presented at 9:45 a.m. on February 28, 2008. At the time and place noticed, attorney Sandra L. Nowack appeared for the Complainant, Department of Regulation and Licensing, Division of Enforcement, and presented a signed Stipulation, in which Respondent agrees to the Board's adoption of the Interim Order of Summary Suspension.

The Wisconsin Board of Nursing, having considered the sworn Petition for Summary Suspension and the February 13, 2008 Affidavit of Service of Notice of Presentation and Petition for Summary Suspension of Sandra L. Nowack, and the Parties' Stipulation, hereby makes the following:

FINDINGS OF FACT

1. Eileen K. Lee, R.N., Respondent, date of birth July 3, 1953, is licensed by the Wisconsin Board of Nursing as registered nurse in the state of Wisconsin pursuant to license number 84271, which was first granted March 25, 1983.
2. Respondent's address of record with the Department of Regulation and Licensing is 1851 Division Street #D3, East Troy, WI 53120.
3. On February 13, 2008, Sandra L. Nowack placed in the regular U. S. mail with proper postage in an envelope addressed to Respondent at 1851 Division Street #D3, East Troy, WI 53120, which appears as Respondent's last known address in the files and records of the Department of Regulation and Licensing, true and accurate copies of the following documents dated February 13, 2008:
  - a. Notice of Presentation of Petition for Summary Suspension
  - b. Petition for Summary Suspension
4. On February 13, 2008, Respondent also sent, via e-mail, copies of the aforementioned documents to Respondent's attorney, Susan Allen. On the same date, Ms. Allen confirmed receipt of the documents.
5. Notice has been given under Wis. Adm. Code § RL 6.05.
6. A formal complaint is pending before the Wisconsin Board of Nursing based upon allegations contained in file number 's 05 NUR 235 & 05 NUR 289. Respondent does not admit the allegations in the formal complaint.
7. Respondent does not admit the facts contained in paragraphs 8-23, below, but agrees to the interim summary suspension.
8. Between 2002 and June of 2005, Respondent was employed as a registered nurse at Mount Carmel Medical an Rehab ("Mt. Carmel"), in Burlington, Wisconsin. Mt. Carmel is a licensed inpatient healthcare facility. Initially Responder provided general nursing care, and with another staff member, was assigned to do wound care for Mt. Carmel's residents.
9. After approximately two years with Mt. Carmel, Respondent was promoted to assistant director of nursing an

her responsibilities shifted primarily to “wound care nurse.” Respondent explained her duties as wound care nurse to include monitoring wounds, documenting wound status, treatment of wounds, changing dressings and physician consultation when appropriate.

10. Between May 13, 2005 and June 1, 2005, Respondent held the position of interim Director of Nursing, in addition to her role as wound care nurse.

11. Patient WK was one of the patients for whom Respondent was responsible. On September 30, 2005, Respondent told a Wisconsin Department of Justice (“DOJ”) investigator she recalled initially seeing Patient WK approximately the first week of April 2005. Respondent stated that Patient WK had two or three bedsores on his buttocks. She treated the sores, monitored Patient WK at least weekly, and documented his care. Respondent indicated that she treated Patient WK for approximately one month and over that time, his wounds stayed the same. Respondent told the DOJ investigator that, regarding bedsores, Patient WK was her “most critical” patient.

12. After the first week of May 2005, Respondent became overwhelmed and she stopped treating Patient WK. Respondent admits that she did not check Patient WK’s wounds, did not arrange for anyone else to monitor and treat Patient WK’s wounds, and she stopped documentation concerning Patient WK. Respondent did not tell anyone that she had stopped providing care for Patient WK.

13. On June 1, 2005, Patient WK was transferred to Memorial Hospital of Burlington. Patient WK had numerous advanced decubitus ulcers on his buttocks and left thigh. Additionally, Patient WK had an 8-inch Stage IV ulcer on his coccyx. The ulcer had a foul odor, with green puss and other discharges coming from it.

14. Patient WK died on June 25, 2005.

15. Dr. Douglas Kelly, the Assistant Medical Examiner for Waukesha County, determined that Patient WK died from bronchopneumonia stemming from bacteria that entered his body through decubitus ulcers. Dr. Kelly found the manner of death to be neglect by caregivers. Dr. Kelly told investigators that sepsis was present throughout Patient WK’s body, and its presence was also due to the bacteria that entered Patient WK’s body through the decubitus ulcers.

16. Patient LG was another patient for whom Respondent was responsible as the wound care nurse. Patient LG’s medical records indicate that on February 21, 2005, April 1, 2005 and April 5, 2005, Patient LG had a serious stage II open pressure wound. Between April 6, 2005 and May 3, 2005, Respondent documented no care of Patient LG’s wound.

17. On April 15, 2006, in a written statement, Respondent told a Division of Enforcement consumer protection investigator, “I thought I was documented [*sic*] everything that I should have been and didn’t falsify anything.”

18. On August 21, 2007, the state charged Respondent, in Racine County Circuit Court Case No. 2007CF1031, with three charges: neglect of a vulnerable patient causing great bodily harm, in violation of Wis. Stat. § 940.295(1)(k); intentional falsification of patient health care records, in violation of § 146.83(4); and neglect of a patient likely to cause bodily harm, in violation of § 940.295(1)(k).

19. On August 28, 2007, the circuit court imposed bail conditions, including that Respondent was to have no unsupervised care of patients/residents at Geneva Lake Manor (her then-employer); and Respondent was to notify her current employer of pending charges. On the same date, Respondent signed a bail/bond form, acknowledging the conditions.

20. Between August 29, 2007 and September 14, 2007, Respondent provided unsupervised care to residents at Geneva Lake Manor. Respondent states she misunderstood the bail conditions.

21. On December 5, 2007, in Racine County Circuit Court Case No. 2007CF1224, based on the conduct described in paragraphs 16-18, above, the state charged Respondent with two counts of felony bail jumping, in violation of Wis. Stat. § 946.49(1)(b).

22. On February 11, 2008, Attorney Sandra L. Nowack spoke with Marie Garwood, who is a registered nurse employed as a surveyor with the Department of Health and Family Services. Ms. Garwood routinely surveys Wisconsin healthcare facilities for their compliance with healthcare standards and is familiar with accepted standards of care for nurses and for nurses providing wound care. Ms. Garwood is familiar with the details of Respondent's care of Patient WK.

23. Ms. Garwood opines that Respondent has engaged in conduct such that the public health, safety and welfare imperatively require emergency suspension of Respondent's license to practice nursing. Ms. Garwood bases her opinion on her investigation into Respondent's care of Patient WK, in addition to Respondent's failure to comply with a circuit court order requiring Respondent not to provide unsupervised care of residents.

### CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to Wis. Stat. § 447.07 and has authority to summarily suspend Respondent's license to practice as a registered nurse in the State of Wisconsin, pursuant to Wis. Stat. § 227.53(3) and Wis. Adm. Code ch. RL 6.

2. Notice has been given to Respondent as required by Wis. Adm. Code § RL 6.05.

3. There is probable cause to believe that Respondent has engaged in or is likely to engage in conduct such that the public health, safety or welfare imperatively requires emergency suspension of Respondent's license to practice as a registered nurse.

### ORDER

IT IS ORDERED that the license of Eileen K. Lee, R.N., to practice as a registered nurse in the state of Wisconsin is summarily suspended, effective immediately upon Respondent receiving actual notice of this summary suspension order or upon service of this summary suspension order upon Respondent or her attorney under Wis. Adm. Code § RL 6.06(3), whichever is sooner.

IT IS FURTHER ORDERED that this Order continues to be in effect until the effective date of a final order and decision in the pending disciplinary proceeding against Respondent, unless otherwise ordered by the Board.

Dated at Madison, Wisconsin this 28<sup>th</sup> day of February, 2008.

Wisconsin Board of Nursing

By: Marilyn Kaufmann  
A Member of the Board

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST : STIPULATION  
:  
EILEEN LEE, R.N., : LS 0802182 NUR  
RESPONDENT. :

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[Division of Enforcement Case #'s 05 NUR 235 & 05 NUR 289]

Eileen Lee, personally on her own behalf and by her attorney, William Jennaro, and Sandra L. Nowack, attorney for the Complainant/Petitioner, Department of Regulation and Licensing, Division of Enforcement, stipulate:

1. Eileen K. Lee, R.N., Respondent, date of birth July 3, 1953, is licensed by the Wisconsin Board of Nursing as registered nurse in the state of Wisconsin pursuant to license number 84271, which was first granted March 25, 1983.
2. Respondent's address of record with the Department of Regulation and Licensing is 1851 Division Street #D: East Troy, WI 53120.
3. A formal complaint is pending before the Wisconsin Board of Nursing based upon allegations contained in file number 's 05 NUR 235 & 05 NUR 289. Respondent does not admit the allegations in formal complaint filed in those matters.
4. Respondent does not admit the facts contained in paragraphs 8-23 in the Interim Order for Summary Suspension but agrees to entry of the Order for Interim Summary Suspension.
5. A hearing date on the formal complaint is to be determined.
6. Also pending before the Board of Nursing is the Division's Petition for Summary Suspension of Respondent's license to practice as a registered nurse.
7. Respondent is currently not practicing as a registered nurse and agrees that, while the Interim Order of Summary Suspension is in effect: she will not work as a registered nurse or in any other caregiver capacity.
8. Respondent further agrees that, in the event she is convicted of any crime in Racine County Circuit Court Case Nos. 2007CF1038 and/or 2007CF1224, whether currently charged or not, her license to practice as a registered nurse shall be revoked, and she shall pay costs associated with Division of Enforcement Case #'s 05 NUR 235 & 05 NUR 289. This provision for revocation shall not apply to crimes with which Respondent may be charged in any case other than in Racine County Circuit Court Case Nos. 2007CF1038 and/or 2007CF1224.
9. In the event Respondent is acquitted in Racine County Circuit Court Case Nos. 2007CF1038 and 2007CF1224, or if the cases close with no convictions for any other reason, the Division shall, within thirty days, schedule a scheduling conference in LS 0802182 NUR, and proceed to hearing or stipulated resolution.

10. Respondent understands that by signing this Stipulation providing for an Interim Order of Summary Suspension, Respondent voluntarily and knowingly waives significant rights, pertaining to the interim order of summary suspension only, including: the right to a hearing on the allegations against Respondent, 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 Respondent; the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena; the right to testify personally; 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 under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other

provisions of state or federal law.

11. Respondent has obtained the advice of legal counsel prior to signing this stipulation.

12. Respondent agrees to the adoption of the attached Interim Order of Summary Suspension by the Board of Nursing. The parties to the Stipulation consent to the entry of the attached Interim Order of Summary Suspension 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.

13. 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.

14. 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 Respondent's 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 case advisor may vote on whether the Board should accept this Stipulation and issue the attached Interim Order of Summary Suspension.

15. Respondent is informed that should the Board adopt this Stipulation, the Board's Interim Order of Summary Suspension is a public record and will be published in accordance with standard Department procedure.

16. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Interim Order of Summary Suspension.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Eileen K. Lee, R.N.  
1851 Division Street #D3  
East Troy, WI 53120

Dated: \_\_\_\_\_

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William A. Jennaro  
Attorney for Respondent  
Cook & Franke SC  
660 E. Mason Street  
Milwaukee, WI 53202-3829.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Sandra Nowack, Prosecuting Attorney  
State Bar No. 1025643  
Attorney for Complainant  
Department of Regulation and Licensing  
Division of Enforcement  
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