

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
PATRICK M. LAVOIE, R.N., : FINAL DECISION AND ORDER
RESPONDENT. : LS0901132NUR

Division of Enforcement Case # 05 NUR 149

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

Patrick M. Lavoie, R.N.
22230 Leeds Drive St. Robert, MO 65584
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

A disciplinary proceeding was commenced in this matter by the filing of a Notice of Hearing and Complaint with the Board of Nursing on January 13, 2009. Prior to the hearing on the Complaint, the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final disposition 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. Patrick M. Lavoie, R.N., (DOB 05/17/1976) is duly licensed as registered nurse in the state of Wisconsin (license # 30-143233). This license was first granted on February 27, 2003.
2. Respondent's most recent address on file with the Wisconsin Board of Nursing is 1322 Woodvale Drive, Madison, Wisconsin, 53716. Respondent's current address is 22230 Leeds Drive, St. Robert, MO 65584.
3. Respondent was discharged from his employment at a hospital due to the following practice issues:
 - (a) Patient M.H., 12/12/04:
 - (1) Respondent was patient M.H.'s primary nurse on this shift. Patient M.H. complained of a tickle in her throat, with pain at 5 out of 10 in severity, which she felt was tolerable. M.H. had a new order

that day for 2-4 mg. IV morphine, and had not yet been given any morphine. Respondent gave M.H. the maximum dose of 4 mg at 23:56, and also gave lorazepam. At 00:31 Respondent administered 25 mg. Diphenhydramine for itching secondary to a rash. He gave 4 mg additional IV morphine at 02:06 in response to a complaint of throat pain of 2/3 out of 10 in severity, which the patient felt was an acceptable level. Another dose of lorazepam was given at 04:06, as well as another 4 mg of IV morphine. Shortly after that, the physician was called because the patient was severely sedated .

(2) At 03:55 Respondent documented a pulse oximetry of 82% on room air with a respiratory rate of 32. He did not provide any interventions. The patient was placed on a 10L mask, and saturations improved to 95%.

(b) Patient E.W., 12/26/04:

Two other nurses filed complaints with the hospital alleging that Respondent refused to allow a patient to get up to have a bowel movement. According to the patient, Respondent told him to just go in his diaper.

(c) Patient J.R., 1/13/05:

J.R. was admitted for a surgical procedure on January 13, 2005. Respondent was his primary nurse. The patient's orders indicated that routine post-op vitals were to be taken every four hours during Respondent's shift. Other than recording the patient's respiratory rate at 4:15 a.m., Respondent did not perform other vitals checks at all during his shift.

(d) Patient J.G., 1/13/05 – 1/14/05

J.G. was admitted for treatment of pain associated with metastatic lung cancer, among other conditions. While hospitalized, he developed pneumonia. He had a standing order to perform blood cultures, urine cultures and administer IV antibiotics if the patient's temperature rose to 101 or greater. There is no documentation that Respondent took J.G.'s temperature throughout his two back-to-back shifts.

(e) Patient G.D., 3/28/05

(1) Respondent documented that G.D. had a 450 cc urinary void at 01:00. A CNA entered G.D.'s room in the morning, and emptied his urinal into the toilet, which was still blue from the cleaning that had occurred the evening before. When the CNA went to document the void on the Intake and Output form, she saw that Respondent had documented a prior void. Respondent was questioned about this documentation. At first he said that he had dumped the 450 ml of urine in another patient's room. Then, he said that the patient had been incontinent in bed, and he had squeezed out the bedding to measure the urine. He said that because he got some on his hands, he dumped the urine down the sink. After he was confronted about his documentation, Respondent altered the record to indicate that the 450 cc output was from another shift. The nurse on that shift denied this.

(2) The same day, Respondent told the charge nurse that he had flushed the IV on her patient. However, the charge nurse found that the saline syringe that was to be used for the flush was still on the nurse server. She asked the patient if another nurse had injected solution into the I.V. The patient told her that Respondent had disconnected the I.V., but did not inject any solution. The charge nurse questioned Respondent about why he had told her he had done a flush when he had not. He did not answer her. Another nurse states that Respondent later came into the med room and asked her how to perform a saline flush.

4. In December of 2007, Respondent resigned from employment as a nurse due to patient complaints regarding his interpersonal skills and staff reports of inappropriate attitudes towards employers, co-workers and patients.

5. Respondent, at his own expense, completed 12.8 hours of approved continuing education in nursing assessment, 11 hours of approved continuing education in nursing documentation, and 8 hours of approved continuing education in interpersonal skills for nurses:

- (i) Nursing Assessment (12.8 credit hours):
 - a. 12/17/2007, ACLS, issued by Emergency Nurses Association (“ENA”), 6.8 credit hours;
 - b. 6/21/2007, Fall Prevention Among the Elderly, issued by Nursing Spectrum (“NS”), 1 credit hour;
 - c. 6/22/2007, Emergency Drug Therapy, issued by NS, 1 credit hour;
 - d. 6/22/2007, Caring for the Postanesthesia Patient, issued by NS, 1 credit hour;
 - e. 6/22/2007, Early Intervention: AED, issued by NS, 1 credit hour; and
 - f. 10/23/2008, Chronic Heart Failure Care Performance Measures in the MHS, issued by the Uniformed Services University Health Sciences (“USUHS”), 1 credit hour; and
 - g. 2/9/2009, Sterile Product Preparation, issued by General Leonard Wood Army Community Hospital, 1 credit hour.
- (ii) Nursing Documentation (11 credit hours):
 - a. 6/21/2007, Documenting It Right: Charting, issued by NS, 1 credit hour;
 - b. 6/21/2007, Preventing Medication Errors, issued by NS, 1 credit hour;
 - c. 6/21/2007, Adverse Drug Events, issued by NS, 1 credit hour; and
 - d. 7/21/2009, Essentris Superuser Training (Essentris is the Army-wide electronic documentation software), issued by U.S. Army, 8 credit hours.
- (iii) Interpersonal Skills for Nurses (8 credit hours):
 - a. 4/28/2007, Harmonize Diversity Through Sensitivity, issued by NS, 1 credit hour;
 - b. 6/21/2007, Stress Management, issued by NS, 1 credit hour;
 - c. 6/21/2007, Staying Cool Under Fire: Communication, issued by NS, 1 credit hour;
 - d. 6/22/2007, Caring: The Essence of Nursing, issued by NS, 1 credit hour;
 - e. 6/22/2007, Emotional Intelligence Helps RNs Work Smart, issued by NS, 1 credit hour; and
 - f. 4/6/2009, Communicating with Power and Confidence, issued by U.S. Army e-Learning, 3 credit hours.

6. Respondent joined the U.S. Army as an Army Nurse in June 2008.

7. On March 17, 2009, Chief of Anesthesia Services at General Leonard Wood Army Community Hospital, John L. Canady, recommended that Respondent be selected to attend either the US Army Graduate Program in Anesthesia Nursing (“USAGPAN”) or the Uniformed Services University Graduate School of Nursing Anesthesia Program. See Exhibit A.

8. Respondent was promoted from First Lieutenant to Captain on 05/16/2009.

9. On 09/02/2009, Respondent was accepted to the USAGPAN to obtain his Master’s Degree in Science-Nursing in order to become a Certified Registered Nurse Anesthetist.

10. Captain Lavoie expects to complete his Master’s Degree in May 2013.

11. Captain Lavoie's acceptance to USAGPAN extends his obligation to the US Army through 2019.

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 paragraphs 3(a) – (e) above constitutes a violation of Wisconsin Administrative Code §§ N 7.03(1), N 7.04(4), N 7.04(6), and subjects Respondent to discipline pursuant to Wis. Stat. § 441.07(1)(b) and (d).
3. The conduct described in paragraph 4 above constitutes a violation of Wisconsin Administrative Code § N 7.03(3) and subjects Respondent to discipline pursuant to Wis. Stat. § 441.07(1)(b).

ORDER

IT IS ORDERED:

1. The stipulation of the parties is approved.
2. The Board of Nursing accepts the surrender of the license of Patrick M. Lavoie (license # 30-143233), to practice as a nurse in the State of Wisconsin and the surrender of his privilege to practice in Wisconsin pursuant to the Multi-state Nurse Licensure Compact.
3. In the event that Respondent re-applies for Wisconsin licensure as a nurse in the future, the Board may enter an order denying such application without further notice or hearing.
4. Prior to re-applying for Wisconsin licensure as a nurse in the future, Respondent shall pay the costs of this proceeding in the amount of Four Thousand Five Hundred Dollars (\$4,500.00). 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

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

Dated at Madison, Wisconsin this 5th day of November, 2009.

Board of Nursing

By: Kathleen Sullivan
A Member of the Board

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
PATRICK M. LAVOIE, R.N., : STIPULATION
RESPONDENT. : LS# 0901132 NUR

Division of Enforcement Case # 05 NUR 149

Patrick M. Lavoie, R.N., personally and by his attorneys, Robert J. Lightfoot, II and Arielle Y. Silver Karsh; 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 149). Respondent consents to the resolution of this investigation by stipulation.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, 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 him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; 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 him 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 obtained 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. By agreeing to this Stipulation and to the adoption of the attached Final Decision and Order by the Board of Nursing, Respondent in no way admits to the truth or accuracy of the allegations claimed in the Final Decision and Order, but mutually enters into this Stipulation with the State of Wisconsin for purpose of, among other things, decreasing the further costs of this proceeding and to achieve a suitable closure.
6. Respondent agrees to voluntarily surrender his license to practice as a nurse in the State of Wisconsin, as well as his privilege to practice nursing pursuant to the Multi-State Nurse Licensure Compact. Respondent agrees that he will not reapply for Wisconsin licensure as a nurse at any time in the future. In the event that Respondent does in fact apply for Wisconsin licensure as a nurse, the Board may deny that application based upon this stipulation, without further notice or hearing, and Respondent hereby expressly waives all rights to a hearing on any such denial or limitation.
7. 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.
8. 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 his 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.

9. 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.

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

Patrick M. Lavoie, R.N.
22230 Leeds Drive St. Robert, MO 65584

Date

Robert J. Lightfoot, II
Arielle Y. Silver Karsh
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Date

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Date