

# 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 :  
 : FINAL DECISION AND ORDER  
LYNN ANN MUCCIO, L.P.N., : LS0910016NUR  
RESPONDENT. :

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[Division of Enforcement Case # 08 NUR 359]

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

Lynn Ann Muccio, L.P.N.  
184 N. 90<sup>th</sup> Street  
Milwaukee, WI 53226

Wisconsin Board of Nursing  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
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 this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Lynn Ann Muccio, L.P.N., Respondent, date of birth May 29, 1949, is licensed by the Wisconsin Board of Nursing as a licensed practical nurse in the state of Wisconsin pursuant to license number 11697, which was first granted December 13, 1971.

2. Respondent's address of record with the Department of Regulation and Licensing is 184 N. 90<sup>th</sup> Street, Milwaukee, WI 53226.

3. At the time of the events set out below, Respondent was employed as a licensed practical nurse in the Cardiology Clinic at Froedtert Hospital in Milwaukee, Wisconsin.

4. After beginning an investigation of a breach of confidentiality in another matter, audit reports revealed that, on several occasions between September 25, 2007 and July 29, 2008, Respondent had accessed electronic medical records for co-workers within her own department, for herself, and for her husband. Upon questioning, Respondent admitted to looking up:

- a. a co-worker's x-rays, upon the request of that co-worker.
- b. another co-worker's test results, upon the request of that co-worker.
- c. her spouse's records.
- d. her own test results.
- e. a co-worker's home address to send her a greeting card, without the co-worker's consent.

5. It was determined that there was no business need to access the electronic scheduling and medical record system, which contained patient health information, and that Respondent's conduct was a direct violation of Froedtert

Hospital's Rules of Staff Conduct – Breach of Confidentiality. As a result, Respondent's employment was suspended for five (5) days without pay. There is no indication that Respondent re-released confidential information to anyone other than the subject of the record.

6. Respondent's conduct was in violation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which is a law substantially related to the practice of nursing.

7. In the course of her employment, Respondent has received educational training in Protected Health Information (PHI) and HIPAA Privacy.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to Wis. Stat. § 441.07 and authority to enter into this stipulated resolution pursuant to Wis. Stat. § 227.44(5).

2. Respondent's conduct, as set out above, constitutes misconduct or unprofessional conduct as defined by Wis. Admin. Code § N 7.04(1), and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Lynn Ann Muccio, L.P.N., is hereby REPRIMANDED for the above conduct.

2. Respondent having completed the relevant continuing education as set out in Finding of Fact 7, no further education is required.

3. Respondent shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing the costs of this proceeding in the amount of \$215.00 pursuant to Wis. Stat. § 440.22(2).

4. Payment shall be mailed or delivered to:

Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax (608) 266-2264  
Telephone (608) 267-3817

5. In the event Respondent fails to pay costs as ordered, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

6. This Order is effective on the date it is signed.

Wisconsin Board of Nursing

By: Marilyn Kaufmann  
A Member of the Board

10/1/09  
Date

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : STIPULATION  
LYNN ANN MUCCIO, L.P.N., : LS \_\_\_\_\_ NUR  
RESPONDENT. :

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[Division of Enforcement Case # 08 NUR 359]

It is hereby stipulated and agreed, by and between Lynn Ann Muccio, L.P.N., Respondent; and Sandra L. Nowack, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (file 08 NUR 359). 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 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. 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 the 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 ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or her attorney, if any, 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 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 that the Board adopt this Stipulation and issue the attached Final Decision and Order.

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Lynn Ann Muccio, L.P.N.  
Respondent  
184 N. 90<sup>th</sup> Street  
Milwaukee, WI 53226

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Date

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Sandra L. Nowack  
Attorney for Complainant  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

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Date