

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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FILE COPY

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

MAYOLA THARP, L.P.N.,  
RESPONDENT

:  
:  
:  
:  
:

FINAL DECISION  
AND ORDER

ORDER 0001641  
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The State of Wisconsin, Board of Nursing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Hearing Examiner, makes the following:

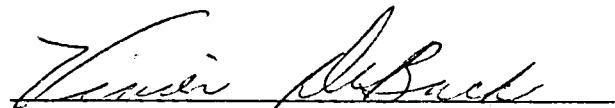
ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Hearing Examiner, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing. Let a copy of this order be served on the respondent by certified mail.

A party aggrieved by this decision may petition the board for rehearing within twenty (20) days after service of this decision pursuant to Wis. Stats. sec. 227.12. The party to be named as respondent in the petition is Mayola Tharp.

A party aggrieved by this decision who is a resident of this state may also petition for judicial review by filing the petition in the office of the clerk of the circuit court for the county where the party aggrieved resides within thirty (30) days after service of this decision. A party aggrieved by this decision who is not a resident of this state must file the petition for judicial review in the office of the clerk of circuit court for Dane County. A party aggrieved must also serve the board and other parties with a copy of the petition for judicial review within thirty (30) days after service of this decision pursuant to Wis. Stats. sec. 227.16. The party to be named as respondent in the petition is the State of Wisconsin Board of Nursing.

Dated this 20th day of September, 1983.

  
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pc017-552

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :

MAYOLA THARP, L.P.N., :  
RESPONDENT. :

PROPOSED DECISION  
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The parties to this proceeding for the purposes of Wis. Stats.  
sec. 227.16 are:

Mayola Tharp  
2157 North 33rd Street  
Milwaukee, Wisconsin 53208

Board of Nursing  
1400 East Washington Avenue, Room 174  
P.O. Box 8936  
Madison, Wisconsin 53708

Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue, Room 183  
P.O. Box 8936  
Madison, Wisconsin 53708

A hearing was held in the above-captioned matter on July 14, 1983 at 1400 East Washington Avenue, Madison, Wisconsin. The complainant appeared by Steven M. Gloe, attorney for the Department of Regulation and Licensing, Division of Enforcement, 1400 East Washington Avenue, P.O. Box 8936, Madison, Wisconsin. The respondent, Mayola Tharp, was not present, nor was anyone present to represent her.

Based upon the record, the examiner recommends that the Board of Nursing adopt as its final decision the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. At all times relevant to this proceeding, Mayola Tharp, respondent herein, was duly licensed in the State of Wisconsin as a licensed practical nurse pursuant to license #19012. This license was issued by the Board of Nursing on February 3, 1977.

2. On August 12, 1982, the respondent was employed as a licensed practical nurse at River Hills Nursing Home-East, 1301 Franklin Place, Milwaukee, Wisconsin. On that date respondent was the only LPN assigned to the second floor of the facility, and acted as the charge nurse. One of respondent's responsibilities as charge nurse was to oversee the work performed by the nursing assistants on duty.

3. On that date, Claudette Christie was employed as a nursing assistant at the River Hills Nursing Home-East. Her duties included periodically observing the patients in the home and reporting any noted change in the condition of a patient to the charge nurse.

4. At approximately 12:30 a.m. on August 12, 1982, Ms. Christie observed that a patient (#222-2) did not look good and felt warm to the touch. This patient had had elevated temperatures of 100° and 101° the previous day.

5. Ms. Christie reported the observed condition of the patient to respondent. Thereafter, respondent visited the room of the patient, but failed to note any problem or to record any of the patient's vital signs.

6. Ms. Christie checked the patient again at approximately 2:00 a.m. and noted that the patient's temperature remained elevated. Ms. Christie reported this observation to respondent. Respondent did not check the patient, record the patient's vital signs, or alert the supervising nurse of the situation.

7. Ms. Christie checked the patient again at approximately 4:00 a.m. and noted that the patient's temperature remained elevated. Ms. Christie reported this observation to the respondent. Respondent did not check the patient, record the patient's vital signs, or alert the supervising nurse of the situation.

8. Ms. Christie checked the patient again at approximately 5:30 a.m. She observed that the patient's temperature had increased and that his respiration seemed very fast. Ms. Christie informed the respondent that the patient appeared to be in serious condition. Respondent then checked the patient and contacted the supervising nurse.

9. At this time, approximately 5:30 a.m., the patient was pale, listless and unresponsive. His nails were cyanotic; his pulse 138, respiration 44, and temperature 102.8°. Further examination revealed a large bounding aortic abdominal aneurism. The patient was subsequently transferred by ambulance to a hospital for emergency care at approximately 6:20 a.m.

#### CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in this proceeding pursuant to Wis. Stats. sec. 441.07.

2. The failure of respondent to observe the condition, signs and symptoms of the patient, record them and report significant changes to the supervising nurse upon becoming aware of Ms. Christie's observations, constitutes a violation of Wis. Adm. Code sec. N 11.03(1)(b) and Wis. Stats. secs. 441.07(1)(c) and (d).

3. The conduct of respondent found herein constitutes grounds for disciplinary action against her license, pursuant to Wis. Stats. sec. 441.07.

### ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Mayola Tharp to practice as a licensed practical nurse (#19012) in the State of Wisconsin, shall be and hereby is suspended for a period of ninety (90) days, effective thirty (30) days following the date of the final decision of the Board of Nursing.

### OPINION

The respondent, Mayola Tharp, was charged with failing to adequately monitor the condition of a patient after having been informed by a nursing assistant that the patient's temperature had become elevated. The patient's condition gradually deteriorated to the point that he was transferred from the nursing home to a hospital for emergency care.

It is alleged that Ms. Tharp was notified on four occasions by the nursing assistant, Claudette Christie, that the patient had an elevated temperature. The first occasion was at approximately 12:30 a.m., the morning of August 12, 1982. Ms. Tharp checked the patient at that time, but failed to note any apparent problem. Thereafter, it is alleged that Ms. Tharp was informed at 2:00 a.m. and again at 4:00 a.m. by Ms. Christie of the patient's elevated temperature. However, Ms. Tharp failed to observe the patient or notify the supervising nurse of the situation. It was only at 5:30 a.m., after Ms. Christie had informed Ms. Tharp that the patient appeared in serious condition, that Ms. Tharp again observed the patient and alerted her supervisor. The patient's condition was such at that time that he was transferred to the hospital for care.

The allegations in the Complaint were established through the testimony at hearing of Ms. Christie. The state further produced the expert testimony of Ms. Katie Kyndely, a registered nurse since 1967, which indicated that Ms. Tharp had an affirmative obligation as charge nurse to view the patient, take and record his vital signs and report the changing condition to the supervising nurse. The failure to perform such actions after being alerted to the situation by the nursing assistant constituted a violation of the statutes and rules of the Board of Nursing.

The examiner has accepted the testimony of Ms. Christie as truthful. Ms. Tharp did not appear at the hearing, although she did submit a letter in which she denied that Ms. Christie had spoken to her about the patient's condition at either 2:00 a.m. or 4:00 a.m. (Exhibit 1). Accordingly, the major issue in this case is whether or not Ms. Christie did inform Ms. Tharp of the patient's condition. In the literal sense, it is the word of Ms. Christie against that of Ms. Tharp. Again, Ms. Tharp did not appear at the hearing to testify under oath as to the facts of this case. Ms. Christie did, and the examiner finds her testimony to be credible.

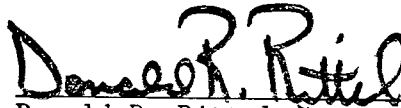
The only remaining issue is the discipline to be imposed against the license of Ms. Tharp, if any. The conduct of Ms. Tharp was very serious. Her responsibility as charge nurse was to oversee the work of the nursing assistants and to follow-up on any observations made concerning changes in

a patient's condition. For whatever reason, she failed to fulfill these responsibilities which resulted in the deterioration of a patient's condition. It is the examiner's opinion that a suspension is necessary in this case in order to impress upon this respondent the seriousness of her misconduct, and in order to deter other licensees from engaging in similar misconduct.

It is recommended that Ms. Tharp's license to practice as a licensed practical nurse in this state be suspended for a period of ninety days.

Dated at Madison, Wisconsin this 15<sup>th</sup> day of August, 1983.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Donald R. Rittel", is written over a horizontal line.

Donald R. Rittel  
Hearing Examiner

DRR:ma  
100-153