

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF :

PATRICIA M. MALAY, R.N., :
RESPONDENT. :

FINAL DECISION
AND ORDER

ORDER 00001696

The parties to this action for the purposes of Wis. Stats. sec. 227.16 are:

Patricia M. Malay
2122 Charles Street
LaCrosse, Wisconsin 54603

Board of Nursing
P.O. Box 8936
Madison, Wisconsin 53708-8936

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8936
Madison, Wisconsin 53708-8936

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 petition in this instance would be captioned with Patricia M. Malay as the respondent.

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.

The parties in this matter agree 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. Patricia M. Malay is duly licensed as a registered nurse in the State of Wisconsin; this license was issued on December 8, 1955.

2. On or about April 1, 1985, Ms. Malay was working as a registered nurse at Bethany Lutheran Home-Riverside, located at 2575 South 7th Street, LaCrosse, Wisconsin 54601.

3. On that date, Ms. Malay noticed resident E.S.'s supply of Darvocet N-100 (Propoxyphene napsylate and Acetaminophen) was depleted. Ms. Malay went to the back-up medication supply and erroneously substituted Darvon with A.S.A. (Propoxyphene napsylate and Aspirin) for the Darvocet. She then administered a dosage of Darvon with A.S.A. to E.S. at approximately 0750 hours.

4. Ms. Malay knew or should have known that E.S. was highly allergic to Aspirin.

5. At approximately 0845 hours, Ms. Malay realized her mistake. She immediately notified her supervisor and placed a call to E.S.'s physician. The physician subsequently ordered continued observation of the resident.

6. At approximately 0950 hours, E.S. went into anaphylactic shock, progressing rapidly to cardiac and respiratory arrest. Ms. Malay initiated Cardiopulmonary resuscitation, and E.S. was transferred to the hospital. E.S. died on April 8, 1985.

7. On April 1, 1985, Ms. Malay was suspended from her employment at Bethany, pending the outcome of this matter with the Board of Nursing. Since that date and up to the signing of the Stipulation to this Order, Ms. Malay has not worked as a nurse.

8. On June 25, 1985, Ms. Malay commenced a tutorial study on nursing pharmacology with Joan Marish of Viterbo College in LaCrosse.

CONCLUSIONS OF LAW

By the conduct described above, Ms. Malay is subject to disciplinary action against her license pursuant to Wis. Stats. Sec. 441.07(1)(c).

Therefore, it is hereby ORDERED:

The license of Patricia M. Malay is SUSPENDED for a period of SIXTY (60) days. In light of Ms. Malay's suspension from employment, this license suspension shall be applied retroactively from April 2, 1985 through June 2, 1985.

It is FURTHER ORDERED that Ms. Malay successfully complete her tutorial in pharmacology and provide the Board by October 15, 1985 with an evaluation by Ms. Marish reflecting successful completion of the tutorial.

BOARD OF NURSING

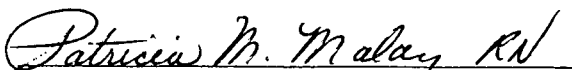
By: John J. Bartkowski 9/18/85
A Member of the Board Date

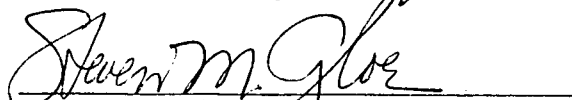
STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

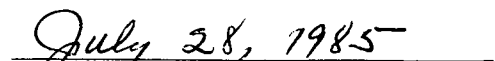
IN THE MATTER OF THE LICENSE OF :
: STIPULATION
PATRICIA M. MALAY, R.N., :
RESPONDENT. :

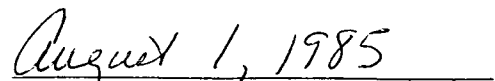
It is hereby stipulated between Patricia M. Malay, R.N., personally on her own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Ms. Malay's licensure by the Division of Enforcement (case file number 85 NURSE 48). Ms. Malay consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Ms. Malay understands that by the signing of 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 clear, satisfactory and convincing 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 Ms. Malay under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. Ms. Malay agrees to the adoption of the attached Final Decision and Order by the Board of Nursing.
4. 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.
5. If the Board accepts the terms of this Stipulation, 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.
6. The Division of Enforcement joins Ms. Malay in recommending the Board of Nursing adopt this Stipulation and issue the attached Final Decision and Order.


Patricia M. Malay, R.N.


Steven M. Gloe, Attorney
Division of Enforcement


Date


Date