

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JANET E. HAUSFELD, R.N.,
RESPONDENT.

FINAL DECISION
AND ORDER
LS9111061NUR

The State of Wisconsin, Board of Nursing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 6 day of March, 1992.

Jacqueline Johnson RN MS

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JANET E. HAUSFELD, R.N.,
RESPONDENT.

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PROPOSED DECISION
LS 9111061 NUR

The parties to this action for purposes of s. 227.53, Stats., are:

Janet E. Hausfeld
214 Elm Street
Coleman WI 54112

Board of Nursing
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

A hearing was held in the above captioned matter on December 12, 1991. Attorney Richard Castelnovo appeared for the Division of Enforcement. Ms. Hausfeld did not appear, and no person appeared on her behalf.

Based on the entire record and file in this matter, the Administrative Law Judge recommends that the Board of Nursing adopt the following Findings of Fact, Conclusions of Law, Order, and Opinion as its Final Decision in this matter.

FINDINGS OF FACT

1. Respondent Janet E. Hausfeld ("Hausfeld") (D.O.B. 11/19/60) is a registered nurse licensed in the State of Wisconsin pursuant to license # 88281, having been so licensed since August 21, 1984.

2. Hausfeld's latest address on file with the Department of Regulation and Licensing is 214 Elm Street, Coleman, WI 54112.

3. In or about March, 1987, Hausfeld commenced employment at McVane Memorial Home, Inc. ("McVane"), Crivitz, WI.

4. During her employment at McVane, Hausfeld displayed certain behaviors that called into question her ability to provide competent and safe patient care.

5. On or about December 6, 1990, while employed at McVane, Hausfeld verbally and physically abused a patient in her care. Hausfeld was not justified in her abusive treatment which included spitting on the patient, striking the patient's face with her hand, and using excessive force to restrain the patient's finger.

6. On the basis of eyewitness accounts and Hausfeld's own statements, Hausfeld was suspended from McVane for two weeks pursuant to the facility's policy, and then allowed to return to duty under certain restrictions limiting her contact with residents.

7. On or about December 20, 1990, Hausfeld was seen by a therapist who observed that Hausfeld was suffering from a "severe adjustment reaction with mixed emotional features." The therapist recommended that Hausfeld discontinue working with certain types of patients such as the one involved in the December 6, 1990 incident, since "continual exposure to such patients could result in making her reactions unpredictable, and her emotional state volatile."

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in this matter pursuant to s. 441.07(1), Stats, and ch. N 7, Wis. Admin. Code.

2. By the conduct described in the Findings of Fact, Respondent Janet Hausfeld has violated:

a. Sec. 441.07(1)(c), Wis. Stats, by acts that show she is unfit or incompetent to practice as registered nurse by reason of mental incompetency, as defined by sec. N7.03(3), Wis. Adm. Code.

b. Sec. 441.07(1)(c), Wis. Stats, by her negligence, as defined by sec. N7.03(1), Wis. Adm. Code, and specifically including sec. N7.03(1)(b), Wis. Adm. Code, an act or omission demonstrating a failure to maintain competency in practice and methods of nursing care.

c. Sec. 441.07(1)(d), Wis. Stats, by her misconduct and unprofessional conduct, as defined by sec. N7.04, Wis. Adm. Code and specifically including sec. N7.04(4), Wis. Adm. Code, abusing a patient by any single or repeated act of force, violence, harassment, deprivation, neglect or mental pressure which reasonably could cause physical pain or injury, or mental anguish or fear.

ORDER

NOW, THEREFORE, the license to practice nursing in the state of Wisconsin previously issued to Janet E. Hausfeld is REVOKED for a period of not less than one year.

IT IS FURTHER ORDERED that the assessable costs of this proceeding be imposed upon Respondent, Janet E. Hausfeld.

OPINION

The evidence presented during the hearing demonstrates that Ms. Hausfeld physically and mentally abused an elderly gentleman in her care at the nursing home at which she worked, apparently in retaliation for objectionable behavior by the resident. The resident, an old man with a reputation for being "difficult" was in fact being difficult at the time of the incident. He swore at Ms. Hausfeld, and spit at her. She spit back, and struck him with her hand. The report from the investigator who interviewed others present at the time said that Ms. Hausfeld had been called in to help the others, but that when she arrived, she was already "in a rage", in the words of one witness to the event. She removed the old man's dentures very roughly, causing bleeding, and when she had reduced him to tears and a state of apparent fear, performed an unnecessary and rough rectal examination on him.

Ms. Hausfeld's reaction to this elderly resident's behavior constitutes physical abuse. The evidence makes clear that the resident was also afraid, in pain, and in tears because of Ms. Hausfeld's actions. But then, with the resident already reduced to tears, and bleeding from Ms. Hausfeld's actions, Ms. Hausfeld decided to do a rectal examination of the resident which was witnessed by an assistant, Louise Johnson. Ms. Johnson described the examination as unnecessary and done in a very rough and unprofessional manner.

I believe that Ms. Hausfeld, already clearly angry and punitive towards the old gentleman, decided that the worst thing she could do to him, the thing that would be the most degrading, was a rough, unnecessary rectal examination by a young female nurse. I believe that the evidence, taken as a whole, demonstrates that Ms. Hausfeld had no respect for this particular resident, and little for other residents of the nursing home.

Ms. Hausfeld had obtained counseling, at least for a time. She sent a letter to the Division of Enforcement (Exhibit 4) in which she attempted to cast the responsibility for the incident onto the resident, saying that the therapy she had received was never meant to prepare a person to accept physical abuse, or stop a human response to an abusive situation. The letter from her therapist of the moment on March 6, 1991, indicates that the therapist himself recommends that Ms. Hausfeld should avoid patients who are physically abusive because continual exposure to such patients could result in making her reactions unpredictable, and her emotional state volatile.

It does not seem to me to be as simple as avoiding physically abusive patients. Ms. Hausfeld apparently has difficulty with the elderly in general (Exhibit 3) and with volatile emotional swings of her own. Some people are not cut out to be nurses, a profession which often requires a higher than average degree of patience, empathy, and emotional strength on the part of its practitioners. Ms. Hausfeld's reaction to this patient, on this single, short contact, demonstrates that she has rather less of these qualities than most people. The injured and infirm of any age tend to require attention and interfere with the desires of impatient and emotionally volatile people.

The only appropriate discipline for her behavior in this single instance, divorced from considerations of her general ability to function in the profession, is revocation. Nothing else is sufficient to deal with the severity of the unprofessional conduct which occurred in this case. This single incident involved a nurse pointedly telling the resident that she was young and he was old, striking him, spitting at him, ripping his dentures from his mouth, yelling at him, reducing him to tears, and then, as a final indignity to this elderly and mentally weak man, performing an unnecessary, rough rectal examination on him while he cried. It seems to me that any nurse who would demonstrate displeasure to a patient in this manner is a nurse from whom the public ought to be protected.

Dated this ^{5th} day of January, 1992.

James E. Polewski

James E. Polewski
Administrative Law Judge

NOTICE OF APPEAL INFORMATION

**(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)**

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Board of Nursing.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Board of Nursing

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Board of Nursing.

The date of mailing of this decision is March 9, 1992.

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JANET E. HAUSFELD, R.N.,
RESPONDENT.

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AFFIDAVIT OF COSTS
OFFICE OF BOARD LEGAL SERVICES
LS 9111061 NUR

STATE OF WISCONSIN,
COUNTY OF DANE, ss.:

James E. Polewski, being first duly sworn on oath, deposes and says:

1. He is an attorney employed by the Department of Regulation and
Licensing, Office of Board Legal Services

2. In the course of that employment, he was assigned to be the
Administrative Law Judge in this proceeding, and in the course of that
assignment expended the following time at the stated expense to the Department:

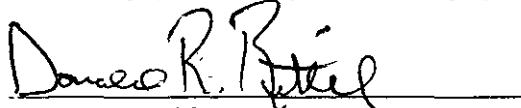
<u>Date</u>	<u>Activity</u>	<u>Time</u>
12/12/91	Preside at hearing	30 minutes
12/20/91	Draft decision	3 hours, 30 minutes
TOTAL:		4 hours

4 hours' salary and benefits for James Polewski: \$99.00

Total assessable costs, Office of Board Legal Services: \$99.00


James E. Polewski

Sworn to and subscribed before me this 3rd day of January, 1992.



Notary Public
My Commission is Permanent.

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JANET E. HAUSFELD, R.N.,
RESPONDENT.

AFFIDAVIT OF COSTS
91 NUR 005 & 91 NUR 175

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Michael J. Berndt, being duly sworn, deposes and states as follows:

1. That he is an attorney licensed in the state of Wisconsin and is employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement;

2. That in the course of those duties, he supervises the Division of Enforcement legal staff; and

3. That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

PROSECUTING ATTORNEY EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
10/24/91	Review file	1 hr.
10/25/91	Review file/draft formal complaint	2 hrs.
11/4/91	Review of file	2 hrs. 15 mins.
11/4/91	Telephone facility	30 mins.
11/5/91	Draft Notice/Review formal complaint	1 hr. 45 mins.
11/12/91	Call to witness/subpoena	2 hours
12/4/91	Default Motion	1 hr.
1/7/92	Remail letter	15 mins.
TOTAL HOURS		<u>10 hrs. 45 mins.</u>

Total attorney expense for
10 hours and 45 minutes at \$30.00 per hour
(based upon average salary and benefits
for Division of Enforcement attorneys) equals: \$ 322.50

INVESTIGATOR EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
2/15/91	Draft Letters	45 mins.
2/22/91	Review records from Respondent	30 mins.
6/10/91	Set up appointment with nursing home	30 mins.
6/19/91	Meet with 5 witnesses	8 hours
7/15/92	Telephone call	15 mins.
TOTAL HOURS		<u>10 hours</u>

Total investigator expense for
10 hours at \$18.00 per hour
(based upon average salary and benefits
for Division of Enforcement investigators) equals: \$ 180.00

TOTAL ASSESSABLE COSTS \$ 502.50


Michael J. Berndt

Subscribed and sworn to before me this 18th day of September, 1992.



Notary Public
My Commission is permanent.

mjb
WPPMJB-282