

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

BEVERLY J. MILLER, L.P.N.,
RESPONDENT.

FINAL DECISION AND ORDER
91 NUR 028

The parties to this action for the purposes of Wis. Stats. sec. 227.53
are:

Beverly J. Miller
216 S. Jackson Street #8
Green Bay, WI 54301

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

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. 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. Beverly J. Miller (D.O.B. 06/14/49) is duly licensed in the state
of Wisconsin as a licensed practical nurse (license # 031 0029122). This
license was first granted on October 7, 1987.

2. Beverly J. Miller's latest address on file with the Department of
Regulation and Licensing is 211 North Roosevelt Street, Green Bay, WI 54301.
However, Ms. Miller's actual address is 216 S. Jackson Street # 8, Green Bay,
WI 54301.

3. Respondent was employed at the Bornemann Nursing Home, Green Bay,
Wisconsin from 9/11/90 to 2/5/91, and was accountable for nursing care of
residents within her assigned unit during her duty shift.

4. On May 24, 1993 the Board served a complaint and notice of hearing upon Respondent. In the complaint the Board has alleged that:

a. On 01/06/91 Respondent attempted to disable the nurse call system with a nail file.

b. On 01/10/91 resident 1019 did not receive ordered medications from Respondent. Although Respondent claimed the resident refused medications, no such documentation was made in the patient record.

c. On 01/25/91 Respondent approached a confused resident from behind and attempted to put medication in the resident's mouth. The resident spit the medication out, and Respondent then charted the medication as given.

d. On 02/01/91 resident 1167 suffered a critical episode. Although Respondent claimed to have assessed the resident's condition and called the treating physician, there was no charting of the resident's change of condition, no medical orders written, and no notations on the resident's medication record.

e. On 02/02/91 Respondent administered 8 units of insulin to resident 1162 without consulting the registered nurse on duty, and contrary to the QID physician's order. Respondent was unable to relate what symptoms indicated a need for insulin, and was unfamiliar with the indications of insulin shock. She was not aware of the function of insulin in the body.

f. On 02/02/91 Respondent obtained a urine sample using an unsterile glove, but recorded that the specimen had been collected in a clean urinal, which was incorrect.

g. On 01/25/91 Respondent made an entry on the chart of patient 1142 that she had obtained a urine specimen via straight catheter. There was no medical order for obtaining a catheterized specimen from the resident.

5. On 06/18/93 the Respondent served her motion to dismiss, answer and affirmative defenses responding to the aforementioned allegations with certain admissions, denials and affirmative defenses which are incorporated herein by reference as though fully set forth.

CONCLUSIONS OF LAW

By the conduct described above, Beverly J. Miller is subject to disciplinary action against her license to practice as a licensed practical nurse in the state of Wisconsin, pursuant to Wis. Stats. sec. 441.07(1), and Wis. Adm. Code N 7.03(1)(a), (b), (c), (d), (g); and N 7.04(5), (6) and (15).

NOW, THEREFORE, IT IS HEREBY ORDERED that :

1. The license of Beverly J. Miller shall be SUSPENDED for a period of not less than one year.

2. The suspension shall be STAYED for a period of three months in accordance with the procedure outlined in paragraph (a), conditioned upon compliance with the conditions and limitations set forth in paragraph (b).

(a) PROCEDURES OF STAY

i. The suspension shall be stayed for an initial period of three months. Following the initial stay, Beverly J. Miller may apply for consecutive three month extensions of the stay of suspension, which shall be granted upon acceptable demonstration of compliance with the terms and conditions imposed upon Ms. Miller's practice during the prior three month period.

ii If the Board denies a petition by Ms. Miller for an extension, the Board shall afford an opportunity for hearing in accordance with Wis. Adm. Code RL-1 upon timely request.

iii. Upon demonstration by Ms. Miller of successful compliance with the conditions of stay set forth in paragraph (b), the Board shall grant a petition by Ms. Miller for return of full licensure.

(b) CONDITIONS OF STAY

i. Upon entry of this Order, Ms. Miller shall enroll in, and within eighteen (18) months of the date of this Order shall successfully complete a course of education and training in the practice of practical nursing of at least 40 hours, which shall include the following areas of study: administration of medication, nursing care of the diabetes patient, nursing care of the elderly, nursing ethics.

The course outline must be pre-approved by the Board no later than 2 months from the date of this Order. The outline must include the name of the institution offering the course of instruction, the name of the instructor, and the content of the course of study. Respondent shall submit certification of the successful completion of the approved course of study to the Board.

In the event Respondent has not successfully completed the required course of education and training at the conclusion of 12 months from the date of this Order, her license shall be LIMITED until certification of successful completion of the required training has been filed with the Board, which must occur within 18 months of the date of this Order.

ii. Respondent shall arrange for quarterly reports to be submitted to the Board from her employer evaluating her work performance.

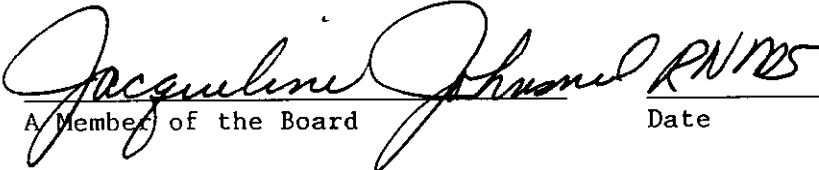
(c) Violation of any of the terms of this Order may result in a summary suspension of Respondent's license; the denial of an extension of stay of suspension; the imposition of additional conditions and limitations; or imposition of additional discipline.

(d) This Order shall be in effect upon signing.

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

WISCONSIN BOARD OF NURSING

By:


A Member of the Board

Date

1/28/94

jwh

doc: 5060

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
BEVERLY J. MILLER,	:	91 NUR 028
RESPONDENT	:	

It is hereby stipulated between Beverly J. Miller, personally on her own behalf and James W. Harris, 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 Beverly J. Miller's licensure by the Division of Enforcement. Respondent consents to the resolution of this investigation by stipulation, ~~and without the issuance of a formal complaint~~ *and*

2. Respondent 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 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, and the Wisconsin Administrative Code.

3. Respondent is aware of her right to seek legal representation and has been provided the opportunity to seek legal advice 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. 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.

. The parties to this stipulation agree that the attorney for the Division of Enforcement may appear before the Board of Nursing for the purpose of speaking in support of this agreement and answering questions that members of the Board may have in connection with their deliberation concerning the stipulation.

The Division of Enforcement joins the Respondent in recommending that the Board of Nursing adopt this stipulation and issue the attached Final Decision and Order.

Beverly J. Miller
Beverly J. Miller

11-9-93
Date

James W. Harris
James W. Harris, Attorney
Division of Enforcement

11/10/93
Date

jh

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.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

JANUARY 31, 1994.

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)