

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 DISCIPLINARY
PROCEEDINGS AGAINST

MYRTLE T. MADAY, L.P.N.,
RESPONDENT.

FINAL DECISION AND ORDER
94 NUR 029

ORDER 0001623

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

Myrtle T. Maday
W 148 N 6188 Wampum Drive
Menomonee Falls, WI 53051

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. Myrtle T. Maday (D.O.B. 5/21/30) is duly licensed in the state of Wisconsin as a licensed practical nurse (license # 13650). This license was first granted on May 18, 1973.
2. Respondent's latest address on file with the Department of Regulation and Licensing is W 148 N 6188 Wampum Drive, Menomonee Falls, WI 53051.
3. At all times relevant to this action Respondent was employed as a licensed practical nurse at the Hearthside Rehabilitation Center, Brown Deer, Wisconsin.

*Unprof.
Surrender
striking resident
at rehab center*

4. On January 14, 1994, Respondent was charged with the care of resident 1329, who was combatant at times.

5. Respondent was observed in room 133 of the facility, standing behind resident 1329, hitting the resident first with both hands, and then with one hand, while stating "you have to stop hitting me."

6. Resident 1329, who is CP, later confirmed by computer message that the hitting by Respondent occurred.

7. Respondent contests Findings of Fact 5 and 6, but deems it to be in her best interests to tender the voluntary surrender of her license to practice as a licensed practical nurse in the state of Wisconsin.

CONCLUSIONS OF LAW

By the conduct described above, Myrtle T. Maday 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)(d), and Wis. Adm. Code sec. N 7.04(4).

NOW, THEREFORE, IT IS HEREBY ORDERED that :

1. The stipulation of the parties is accepted.

2. The VOLUNTARY SURRENDER by Myrtle T. Maday of her license to practice as a licensed practical nurse in the state of Wisconsin is hereby accepted.

3. If the Respondent shall ever re-apply for a license to practice as a nurse in the state of Wisconsin:

a. The Board of Nursing may consider the Findings of Fact contained herein in determining whether to grant a license;

b. The Board of Nursing may require the Respondent to complete all requirements and to take and pass all examinations then required for original licensure;

c. In the event that the Board considers re-licensure of the Respondent, the Board may impose such limitations and conditions upon the license as the Board of Nursing deems appropriate at the time.

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".

This Order shall become effective upon the date of its signing.

WISCONSIN BOARD OF NURSING

By: Reguline Johnson RNMS 9/16/94
A Member of the Board Date

jh

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
MYRTLE T. MADAY, L.P.N.,	:	94 NUR 029
RESPONDENT	:	

It is hereby stipulated between Myrtle T. Maday, 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 Respondent'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.

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.

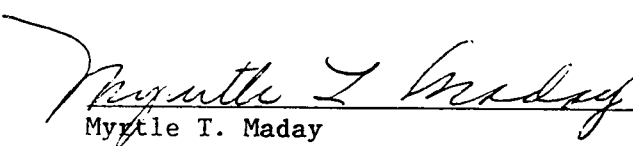
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board of Nursing. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any 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.

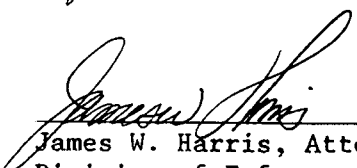
6. Attached to this Stipulation is the current licensure card of Respondent. Respondent hereby agrees to voluntarily surrender her license to practice as a licensed practical nurse in the state of Wisconsin. If the Board does not accept this Stipulation, the license of shall be returned to with a notice of the Board's decision not to accept the Stipulation.

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

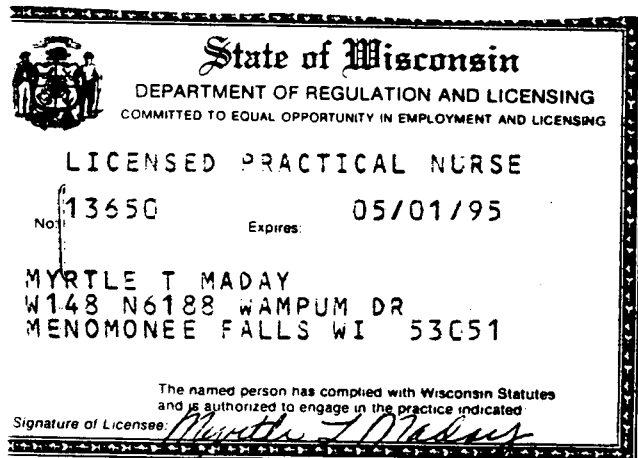
8. The Division of Enforcement joins Respondent in recommending the Board of Nursing adopt this Stipulation and issue the attached Final Decision and Order.


Myrtle T. Maday

7-29-94
Date


James W. Harris, Attorney
Division of Enforcement

August 15, 1994
Date



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:

SEPTEMBER 20, 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.)



PDF: DE00000001820-19940916

Order Dates:

SEP 16, 1994

Respondent Names:

MADAY, MYRTLE T., LPN

Complaint IDs:

94NUR029

Profession:

LICENSED PRACTICAL NURSE

Boards:

NUR

Short Description:

VOLUNTARY SURRENDER ACCEPTED.

Case Summary:

CHARGED WITH THE CARE OF A RESIDENT WHO WAS COMBATANT AT TIMES.
WAS OBSERVED STANDING BEHIND THE RESIDENT AND HITTING THE
RESIDENT FIRST WITH BOTH HANDS AND THEN WITH ONE HAND WHILE
STATING "YOU HAVE TO STOP HITTING ME." RESIDENT CONFIRMED THE
HITTING OCCURRED.

