

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."
The status of an appeal may be found on court access websites at:
<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wsccl>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JOHN S. DAY, JR., LPN,
RESPONDENT

FINAL DECISION AND ORDER
94 NUR 140

ORDER 0001673

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

John S. Day, Jr., LPN
700 West Layton Avenue C-5
Milwaukee, WI 53221

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. John S. Day, Jr. (D.O.B. 09/12/48) is duly licensed as a practical nurse in the state of Wisconsin (license #24876). This license was first granted on June 3, 1982.
2. Mr. Day's most recent address on file with the Wisconsin Board of Nursing is 700 West Layton Avenue C-5, Milwaukee, WI 53221.
3. At all times relevant to this action, Mr. Day was working as a licensed practical nurse at Woodstock Care Center, 2115 East Woodstock Place, Milwaukee, Wisconsin.
4. On or about July 23, 1994, Mr. Day provided resident MK with Macrodantin™, an antibiotic medication. When MK informed Mr. Day that she needed to take her medication with food or milk, Mr. Day responded with anger and told the resident that antibiotics should be taken on an empty stomach. The physician's order for administration of this medication to MK indicated "Give with food."

*Patient advised
C.E. pharmacology
& stress mgmt*

as

5. In resolution of this matter, Mr. Day consents to entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

By the conduct described above, John S. Day, Jr. is subject to disciplinary action against his license to practice as a practical nurse in the state of Wisconsin, pursuant to Wis. Stats. §441.07(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that John S. Day, Jr., LPN is REPRIMANDED.

IT IS FURTHER ORDERED that

Within nine (9) months from the date of this order Mr. Day shall submit documentation of successful completion of

- i. eight (8) hours of continuing education acceptable to the Board in the area of nursing pharmacology or another area approved by the Board as relevant to the conduct described in this action; and
- ii. a course in stress management, anger management or communication skills acceptable to the Board.

To be acceptable, the course or training taken shall be pre-approved by a member or designated agent of the Board of Nursing. Acceptable documentation shall include certification from the sponsoring organization as well as a statement signed by Mr. Day verifying that he attended the course in its entirety.

In the event that Mr. Day fails to timely comply with the education requirement set forth above, his nursing license shall be suspended, without further notice or hearing, until he has complied with the terms of this Order.

Violation of any of the terms of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Mr. Day's license; the Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.

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

BOARD OF NURSING

By: Pamela D. Mader RP
A Member of the Board

Date 1/6/95

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

| | | |
|----------------------------------|---|-------------|
| IN THE MATTER OF | : | |
| DISCIPLINARY PROCEEDINGS AGAINST | : | STIPULATION |
| JOHN S. DAY, JR., LPN, | : | 94 NUR 140 |
| RESPONDENT | : | |

It is hereby stipulated between John S. Day, Jr., personally on his 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 Mr. Day's licensure by the Division of Enforcement. Mr. Day consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Mr. Day understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, 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 him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; 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 him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Mr. Day is aware of his right to seek legal representation and has been provided an opportunity to seek legal advice prior to signing this stipulation.

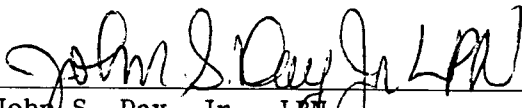
4. Mr. Day agrees to the adoption of the attached Final Decision and Order by the Board of Nursing. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any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

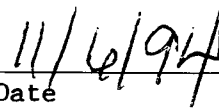
6. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Board of Nursing assigned as an advisor in this investigation may appear before the Board for the

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.


7. The Division of Enforcement joins Mr. Day in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.



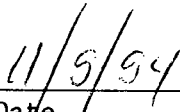
John S. Day, Jr., LPN



Date



Steven M. Gloe, Attorney
Division of Enforcement



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:

JANUARY 9, 1995.

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: DE00000001854-19950106

Order Dates:

JAN 06, 1995

Respondent Names:

DAY JR, JOHN S., LPN

Complaint IDs:

94NUR140

Profession:

LICENSED PRACTICAL NURSE

Boards:

NUR

Short Description:

REPRIMANDED. 8 CE HOURS AND COURSE ACCEPTABLE TO THE BOARD BY 10/6/95.

Case Summary:

PROVIDED A RESIDENT WITH AN ANTIBIOTIC MEDICATION. RESIDENT INDICATED NEEDED TO TAKE MEDICATION WITH FOOD OR MILK, AND HE RESPONDED WITH ANGER AND TOLD RESIDENT IT SHOULD BE TAKEN ON EMPTY STOMACH. PHYSICIAN'S ORDER INDICATED GIVE WITH FOOD.

