

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 :

LOLA SHERRELL BOYD, L.P.N., :
RESPONDENT. :

FINAL DECISION AND ORDER
96 NUR 179

LS 9801306 NUR

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

Lola Sherrell Boyd
2129 North 26th Street
Milwaukee, WI 53205

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. Lola Sherrell Boyd (D.O.B. 3/20/61) is duly licensed in the state of Wisconsin as a licensed practical nurse (license # 28265). This license was first granted on November 27, 1985.
2. Respondent's latest address on file with the Department of Regulation and Licensing is 2129 North 26th Street, Milwaukee, WI 53205.
3. On February 2, 1996, while employed as a pool nurse with Professional Health Care Services, Inc., Respondent was assigned to work as a licensed practical nurse at the Marian Catholic Home. During her duty shift Respondent made the following errors in nursing practice:
 - a. Patient 221-2. Respondent failed to observe and collect data and failed to sign out or administer inhalers for the patient at 0400 and 0600 hours.

b. Patient 224-1. Respondent became confused about a tube feeding. Although the feeding was ordered to start at 0600, it was not timely administered, and was not given at the correct strength or rate. Inappropriate documentation was recorded.

c. Patient 225-1. Respondent failed to accomplish inhaler breathing treatments. Later the patient was discovered in respiratory distress. Respondent failed to complete tube feeding at 0500 as ordered but documented it as completed.

d. Patient 227-2. Respondent did not utilize compression stockings as ordered and claimed she did not know what they were. Inappropriate documentation of task was made.

4. From April 1, 1996 to September 20, 1996, Respondent was employed as a licensed practical nurse at Heartland of Milwaukee.

5. During her employment at Heartland Respondent was cited for the following medication administration errors:

a. On June 4, 1996, Respondent failed to administer a medication according to a physician order.

b. On June 24, 1996, Respondent failed to administer ordered medications to three patients and failed to make appropriate documentation in the patient records.

c. On July 17, 1996, Respondent administered the wrong tube feeding to a resident.

6. On August 7, 1996, Respondent's performance was noted as below standard. It was reported that Respondent required constant supervision due to major medication errors.

7. On September 18, 1996, Respondent reported to her duty shift with the strong smell of intoxicants about her person. It was observed that Respondent stayed at the nurses station and was unproductive during the shift. As a result of violating facility policy Respondent was suspended.

CONCLUSIONS OF LAW

By the conduct described above, Lola Sherrell Boyd 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)(b), (c) and (d), and Wis. Adm. Code sec. N 7.03(1)(a), (b), (c), (d), and N 7.04(1) and (15).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that :

1. Lola Sherrell Boyd is REPRIMANDED.
2. The license of Respondent to practice as a nurse in the state of Wisconsin is LIMITED as follows:

a. Respondent shall certify to the Board the successful completion of an approved course of training in medication administration and documentation, and an approved course in nursing ethics, within 9 months of the date of this order. Within 2 months of the date of this Order, Respondent shall submit to the Board designee an outline of the required training for approval, which shall contain the name of the institution providing the instruction, the name of the instructor, and the course content.

Failure by Respondent to fully and timely comply with the requirements of this Order shall result in the suspension of Respondent's license to practice as a nurse without further notice or hearing, until such time as full compliance with the provisions of this Order has been attained.

b. Until further Order of the Board, Respondent shall engage in direct patient care only under the direct supervision of a registered nurse.

c. Until further Order of the Board, Respondent shall not engage in employment as a pool nurse.

d. Respondent shall provide her nursing employers with a copy of this Order before engaging in any nursing employment.

3. 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".

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

WISCONSIN BOARD OF NURSING

By: 
A Member of the Board

30 JAN 98
Date

STATE OF WISCONSIN

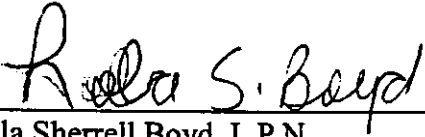
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
LOLA SHERRELL BOYD, L.P.N.,	:	96 NUR 179
RESPONDENT.	:	

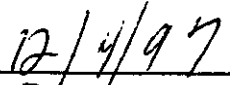
It is hereby stipulated between Lola Sherrell Boyd, personally on his own behalf, and James W. Harris, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

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.

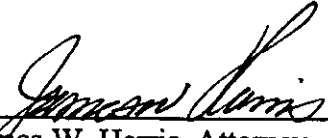
6. Attached to this Stipulation is the current licensure card of Respondent.
7. The parties to this Stipulation agree that the attorney for the Division of Enforcement may appear before the Board of Nursing for the purposes of speaking in support of this agreement and answering questions that the members 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.



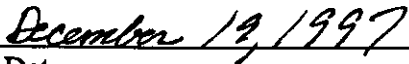
Lola Sherrell Boyd, L.P.N.



Date



James W. Harris, Attorney
Division of Enforcement



Date

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE BOARD OF NURSING

In the Matter of the Disciplinary Proceedings Against

Lola Sherrell Boyd, L.P.N.,

AFFIDAVIT OF MAILING


Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On February 4, 1998, I served the Final Decision and Order dated January 30, 1998, LS9801306NUR, upon the Respondent Lola Sherrell Boyd, L.P.N. by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 158 318.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

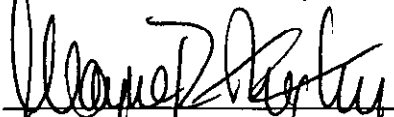
Lola Sherrell Boyd, L.P.N.
2129 N. 26th Street
Milwaukee WI 53205



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 4th day of February, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: LOLA SHERRELL BOYD LPN

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 2/4/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. 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 section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

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

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order 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. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935