

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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State of Wisconsin
Before the Board of Nursing

FILE COPY

In the Matter of Disciplinary Proceedings Against

Esther M. Griffin, R.N.
Respondent
Case No. 96 NUR 011

LS9801292NUR

Final Decision and Order

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

Esther M. Griffin, R.N.
23810 63rd Street
Salem WI 53168

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

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

The parties having agreed to the attached stipulation, and the Board of Nursing makes the following

Findings of Fact

1. Esther M. Griffin, R.N., was born on February 1, 1951, and is licensed to practice professional nursing pursuant to license number 0109291, first granted on March 20, 1992.
2. On December 5 and December 6, 1995, Respondent falsely recorded that she had changed the wound dressing on patient N.S., a resident at the Ridgewood Care Center in Racine, Wisconsin.
3. On December 6, 1995, Respondent falsely recorded that she had changed the wound dressing on patient H.U., a resident at the Ridgewood Care Center in Racine, Wisconsin.
4. Respondent admits that she did not do the treatments on December 6, 1995.

5. In mitigation of her failure to perform the treatment she recorded as having completed, Respondent alleges that the unit was understaffed, and further alleges that she was suffering from an undiagnosed fractured pelvis.

Conclusions of Law

1. The Board of Nursing has jurisdiction in this matter pursuant to ch. 441, Stats.
2. Respondent's conduct in recording that she had completed treatments she did not in fact perform constitutes a violation of s. N 7.03(1)(d) and N 7.04(6), Wis. Admin. Code.

Order

Now, therefore, it is ordered that Esther M. Griffin, R.N., be and hereby is reprimanded.

It is further ordered that Esther M. Griffin, R.N., shall, within three months of the date of this order, successfully complete an 8 hour course in the legal and professional requirements of nursing practice approved by the Board.

It is further ordered that Nurse Griffin shall work through the Department Monitor, Michelle Neverman, at the Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708, 608/267-7139, in obtaining approval of the remedial education before Nurse Griffin begins the course or courses necessary to fulfill this Order.

It is further ordered that Nurse Griffin shall be solely responsible for all costs associated with completion of the remedial education.

Dated this 29th day of January, 1998.

Board of Nursing



By a Member of the Board

State of Wisconsin
Before the Board of Nursing

In the Matter of Disciplinary Proceedings Against

Esther M. Griffin, R.N.
Respondent
Case No. 96 NUR 011

Stipulation

It is hereby stipulated between Esther M. Griffin, R.N., personally and her attorney, P. Scott Hassett, and James E. Polewski, Attorney for the Division of Enforcement, Department of Regulation and Licensing, as follows:

1. This stipulation is entered in resolution of the pending matter concerning Ms. Griffin's license. The Stipulation and the proposed Final Decision and Order shall be presented directly to the Board of Nursing for its consideration and adoption.
2. In resolution of these proceedings, Ms. Griffin consents to the entry of the attached Final Decision and Order.
3. Ms. Griffin is aware of and understands each of her rights, including:
 - the right to a hearing on the allegations against her, at which the state would have the burden of proving the 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 own 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,
 - the right to be represented at every stage of the proceeding, including the making of any stipulation, by an attorney of her choosing, at her own expense,
 - all other rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
4. Ms. Griffin is aware and understands that by signing this stipulation she voluntarily and knowingly waives the rights set forth in paragraph 3 above, and does voluntarily and knowingly waive those rights.
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 purpose of speaking in favor of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

7. Respondent is informed that should the Board adopt this stipulation, the Board's final decision and order is a public record and will be published in the monthly *Report of Decisions* issued by the department. A summary of the order will be published in the *Wisconsin Regulatory Digest* issued semiannually by the Board. A press release will be prepared and distributed to all press boxes in the State Capitol building, to the press in the community where respondent resides and practices, and to individuals and organizations included on a mailing list maintained by the department. This is standard department procedure and in no way specially directed at Respondent.

Esther M. Griffin, R.N.
Esther M. Griffin, R.N.

1-29-98
Date

P. Scott Hassett
P. Scott Hassett
Lawton & Cates, S.C.
Attorneys for Ms. Griffin

1/29/98
Date

James E. Polewski
James E. Polewski
Attorney
Division of Enforcement

1/27/98
Date

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

In the Matter of Disciplinary Proceedings Against

Esther M. Griffin, R.N.,

AFFIDAVIT OF MAILING

Respondent.

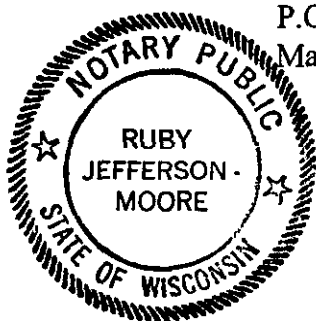
STATE OF WISCONSIN)
)
COUNTY OF DANE)

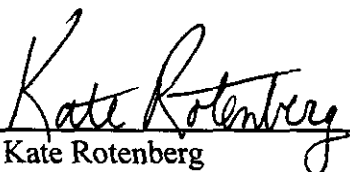
I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On February 3, 1998, I served the Final Decision and Order dated January 29, 1998, LS9801292NUR, upon the Respondent Esther M. Griffin's attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent's attorney 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 221 158 312.

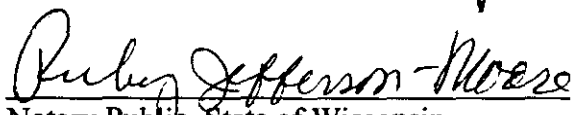
P. Scott Hassett, Attorney
Lawton & Cates, S.C.
214 W. Mifflin Street
P.O. Box 2965
Madison WI 53701




Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 3rd day of February 1998.


Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: P SCOTT HASSETT ATTY

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 2/3/98. 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