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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :		
PROCEEDINGS AGAINST :		
	:	FINAL DECISION AND ORDER
CHERYL A. BOYER, LPN,	:	LS0303071NUR
RESPONDENT	:	

Division of Enforcement Case No. 01 NUR 245

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Cheryl A. Boyer
3333 East Avenue South, Apt. 105
LaCrosse WI 54615

Board of Nursing
PO Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
PO 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. Cheryl A. Boyer (D.O.B. 05/04/50) is duly licensed as a practical nurse in the state of Wisconsin (license # 31-29506).

2. Respondent's most recent address on file with the Wisconsin Board of Nursing is 3333 East Avenue South, Apt. 105, LaCrosse, WI 54601.

3. At all times relevant to this action, Respondent was working as a licensed practical nurse at Osseo Area Nursing Home, Osseo, Wisconsin through Intelistaf Health Care, a nursing agency.

4. On or about September 22, 2001, an elderly female with dementia, resident DE, became agitated while being prepared for bed. DE bit Respondent in the arm. In response, Respondent struck DE in the face and addressed her with a raised voice. Respondent contests these allegations and contends that a) she patted DE's face to get her attention, and b) she did not yell at the resident.

5. The Board of Nursing previously disciplined Respondent on January 4, 2001.

6. In resolution of this matter, Respondent consents to the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter, pursuant to sec. 441.07, Stats.

2. The Wisconsin Board of Nursing is authorized to enter into the attached stipulation, pursuant to sec. 227.44(5), Stats.

3. The conduct described above constitutes a basis for discipline under secs. 441.07(1)(b) and (d) and Wisconsin Administrative Code § N 7.04(4) and (15). Furthermore, the Findings of Fact set forth above in paragraph 4 constitute an agency finding of abuse within the meaning of secs. 48.685 and 50.065, Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that

1. The license of Cheryl A. Boyer (License #31-29506) is hereby **SUSPENDED** for **AN INDEFINITE PERIOD OF TIME**.

PETITION FOR REINSTATEMENT

2. Respondent may petition the Board for a stay of suspension at any time following the effective date of the Order. Respondent shall be responsible for all expenses connected with submission of a petition.

a. In conjunction with a petition by Respondent, the Board shall require a report of a current independent mental health evaluation of Respondent performed by a health care provider acceptable to the Board. The person providing the mental health assessment shall have experience in stress and anger management.

i. Respondent shall obtain Board approval of the assessor prior to the assessment being performed.

ii. The assessor shall submit a written report of his or her findings directly to the Board, including: a diagnosis of Respondent's condition (if any); recommendations for treatment; an evaluation of Respondent's level of cooperation in the assessment process; her ability to safely and reliably practice as a nurse; any work restriction recommendations; and Respondent's prognosis. The assessments shall reflect that the assessor has received and reviewed copies of this order and Division investigative materials regarding Respondent's behavior. To be considered current, the assessments shall be conducted within not more than thirty (30) days from the date of the petition.

b. In conjunction with a petition by Respondent, the Respondent shall submit acceptable documentation of successful completion of a Caregiver Rehabilitation Review with the Wisconsin Department of Health and Family Services.

c. The Board may in its discretion require a personal appearance by Respondent in conjunction with its consideration of a petition submitted under this paragraph.

d. Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of secs. 227.01(3) and 227.42, Stats.

LIMITATIONS

3. Upon the grant of a petition for a stay of the suspension of Respondent's license, the license of Respondent shall be LIMITED as follows:

Treatment [If applicable]

a. If the assessment referred to in ¶ 2(a) above reveals a need for treatment,

i. Respondent shall initiate and maintain successful participation in all components of treatment as recommended by the assessment. Treatment shall be provided by a mental health practitioner acceptable to the Board. Respondent must attend therapy on a schedule as recommended by her mental health practitioner; attendance, however, shall be required at least one (1) time per month.

ii. Respondent shall provide and keep on file with all applicable treatment providers and facilities current releases which comply with state and federal laws authorizing release of all of Respondent's medical and treatment records and reports. In addition, these releases shall (if applicable) permit her treating physicians and therapists to disclose and discuss the progress of her treatment and rehabilitation with the Board of Nursing or any member thereof, or with any employee of the Department of Regulation and Licensing acting under the authority of the Board of Nursing. Copies of these releases shall be filed simultaneously with the Department Monitor.

Practice Limitations

b. Upon issuance of a stay and until otherwise ordered by the Board

- i. Respondent shall practice only in settings where she works under supervision by another nurse or other licensed health care professional acceptable to the Board. Respondent shall refrain from nursing employment as a charge nurse.
- ii. Respondent shall refrain from nursing employment as a pool nurse; and
- iii. Respondent shall refrain from nursing employment as a visiting nurse or other home care practitioner.

Department Monitor

- c. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including receiving and coordinating all reports and petitions. The Department Monitor may be reached as follows:

Department Monitor
Department of Regulation Division of Enforcement
PO Box 8935
Madison, WI 53708-8935
FAX (608) 266-2264
TEL. (608) 267-3817

Required Reporting

- d. (If applicable) Respondent shall arrange for her mental health care provider to submit formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, PO Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in her treatment program. Respondent's mental health care provider shall report immediately to the Department Monitor [Division of Enforcement, PO Box 8935, Madison, Wisconsin 53708-8935, FAX (608)266-2264, telephone no. (608)261-7938] any incident or suspected incident of patient abuse or neglect.
- e. Respondent shall arrange for her nursing employer to provide formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, PO Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance.
- f. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

PETITION FOR MODIFICATION OR TERMINATION OF LIMITATIONS

4. Upon completion of: one [1] years of complete, successful and continuous compliance with the terms of this Order that includes one [1] years of supervised nursing employment under the terms of this Order; Respondent may petition the Board to revise or eliminate any of the above conditions. Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. §§227.01(3) and 227.42.

SUMMARY SUSPENSION

5. Violation of any of the terms of this Order may in addition be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license pursuant to the procedures set forth in Wis. Admin. Code RL Ch. 6. 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.

EFFECTIVE DATE OF ORDER

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

BOARD OF NURSING

By: Linda Sanner

3-7-03

On behalf of the Board

Date