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IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
ROBERT MACKINS, LPN, : LS0306063NUR
RESPONDENT :

Division of Enforcement Case File No. 02 NUR 070

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

Robert Mackins
504 North 29th Street
Milwaukee, WI 53208

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. Robert Mackins (DOB 01/12/1949) is duly licensed as a licensed practical nurse in the state of Wisconsin (license #34539). This license was first granted on 01/07/1998.
2. Respondent’s most recent address on file with the Wisconsin Board of Nursing is 504 North 29th Street, Milwaukee, WI 53208.
3. At all times relevant to this action, Respondent was working as a licensed practical nurse through Trinity Healthcare Temp Agency.

4. On or about March 22, 2002, Respondent was working as a pool nurse for the night shift at Allis Care Center, 9047 West Greenfield Avenue, Greenfield, Wisconsin.

5. On March 22, 2002, Respondent mistakenly performed a vaginal examination on an elderly female resident ("Resident A") of the facility. Resident A did not have any Order for a vaginal examination, and she informed Respondent that a) he had the wrong patient and b) she did not want to be checked. Resident B, who resided next door, did have an Order to "monitor vaginal pessary every shift for displacement/discharge." Respondent did address Resident A by Resident B's name during this time, and Resident A did not correct him. Resident A did eventually allow Respondent to perform the procedure.

6. On March 22, 2002, Respondent brought a bed pan to Resident C, upon her request.

7. According to Resident C, she then reported to Respondent that she could not urinate. Resident C stated that Respondent informed her that he would digitally stimulate her to assist her to urinate. Resident C alleged that Respondent then touched Resident C in the area of her perineum.

8. Respondent denies any genital/urinary contact with Resident C.

9. In resolution of this matter, Respondent consents to the entry of 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. By his failure to assure the proper identity of Resident B prior to performing an invasive examination, Respondent is subject to disciplinary action against his Wisconsin nursing license, pursuant to sec. 441.07(1), Stats., and Wis. Admin. Code § N7.03 (1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Robert Mackins is REPRIMANDED.

IT IS FURTHER ORDERED that the license of Robert Mackins, LPN (#34539) shall be LIMITED as follows:

Practice Restrictions

1. Until otherwise Ordered by the Board, Respondent shall practice only in settings where he works under the on-premises supervision of another nurse or other licensed health care professional.

Education Requirements

2. Within six [6] months from the date of this Order, Respondent shall submit acceptable documentation of successful completion of at least ten [10] hours of continuing education or of other training pre-approved by the Board such areas of ethics, charting and patient rights or other training pre-approved by the Board. Acceptable documentation of completion of continuing education shall include: certification from the sponsoring organization as well as a statement signed by Respondent verifying his attendance at the course and completion of course requirements.

3. Respondent shall be responsible for all expenses incurred by him in complying with the terms of this Order.

Required Reporting

4. For a period of at least one [1] year from the date of this Order, Respondent shall arrange for quarterly reports from his nursing employer(s) reporting the terms and conditions of his employment and evaluating his work performance. These reports shall be submitted to the Department Monitor in the Department of Regulation and Licensing Division of Enforcement.

5. Respondent shall notify the Department Monitor of any change of employment during the time in which the Order is in effect. Notification shall occur within fifteen (15) days of a change of employment and shall include an explanation of the reasons for the change.

Department Monitor

6. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including receiving reports and coordinating all requests for approval of education or other petitions. The Department Monitor may be reached as follows: Department Monitor c/o Division of Enforcement, PO Box 8935, Madison, WI 53708-8935. TEL (608) 267-3817 FAX (608) 266-2264

Petition for Termination of Restrictions

7. Upon completion of: one [1] year of complete, successful and continuous compliance with the terms of this Order that includes one [1] year of 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 secs. 227.01(3) and 227.42, Stats.

Agency Caregiver Finding

8. If Respondent fails to fully and completely comply with all terms and conditions set forth above or if the Department receives a subsequent credible allegation against Respondent of abuse, neglect or misappropriation, the Department Monitor shall without further notice or hearing notify the Wisconsin Department of Health and Family Services that the findings set forth in this Order shall thereafter constitute an agency finding of neglect for the purposes of secs. 48.685 and 50.065, Stats. Respondent shall then REFRAIN from any nursing employment in any facility licensed by the Wisconsin Department of Health and Family Services until such time as Respondent successfully completes a rehabilitation review administered by DHFS.

SUMMARY SUSPENSION

9. 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

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

BOARD OF NURSING

By: Linda Sanner

6-6-03

On behalf of the Board

Date