

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY		:	
PROCEEDINGS AGAINST		:	
		:	FINAL DECISION AND ORDER
ARLENE MARY BENTON, LPN,		:	LS0309053NUR
RESPONDENT		:	

Division of Enforcement Case No’s. 02 NUR 137

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

Arlene Mary Benton
S568 West Mann Street
Marshfield WI 54449

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, 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. Arlene Mary Benton (D.O.B. 12/25/1948) is duly licensed as a licensed practical nurse in the state of Wisconsin (license #33838). This license was first granted on 10/01/1996.
2. Respondent’s most recent address on file with the Wisconsin Board of Nursing is S568 West Mann Street, Marshfield, WI 54449.

3. At all times relevant to this action, Respondent worked as a licensed practical nurse at Marshfield Center, 814 West 14th Street, Marshfield, Wisconsin.
4. On or about April 27, 2002, CNA staff informed Respondent at approximately 5:00 pm that ET, a 96 year old male resident whose diagnoses included insulin dependent diabetes, congestive heart failure, and recent pneumonia, was in the dining room and not swallowing his food.
5. The following charting exists ET for the events of 04/27/2002:

Nurses' Notes

Respondent's charting

1750 (late entry) Resident in dining room eating supper, when he became sluggish, eyes open, no verbal communication. Respirations shallow, irregular. Heimlich performed. RN supervisor called. Chewed hot dog and liquids expelled p.o. from resident. Resident removed from dining room. Respirations gurgly.

Dr. Wisbrook on call for General Internal notified, orders received, refer to p.o. Sister Adella Knutson updated on orders and resident's condition. Report called to SJHER [Saint Joseph's Hospital Emergency Room.]

SJHER called to report resident to be admitted to hospital until 04/28/02 for respiratory distress.

The RN supervisor charting:

1754 Called to 200 wing Activity Room with Resident not breathing well. Resident very cyanotic. O2 started at 5:56 with nasal cannula. Call placed to 911 and ambulance here and evaluating resident.

The Fire & Rescue report:

Vital Signs 1800 hours Pulse 60 IRR, Resp: 18 labored, Status: Responsive only to Pain, EKG: Junctional Rhythm; Lungs (L)(C) Crackles (R)(C) Crackles; Skin (A) Dry (c) Very Cyanotic; T: Normal

MAR for April 27, 2002

(Respondent's entry) 1630 blood sugar level 173 with administration of 15 U of Novolin 70/30 insulin.

Glucometer

Memory showed blood sugar levels of 73 (1630 hours) 72 (1715 hours) and 83 (1727 hours) for ET

7. Respondent contends that when she first saw ET in the dining room, he was responsive with his eyes opened.
8. Respondent informed staff that ET's blood sugar was low, and that he needed to eat. She then placed her palm on ET's forehead and attempted to get ET to drink some milk. Respondent contends that she at no time during this incident pushed ET' head back further than to a vertical position; this statement is contested by other witnesses to the event.
9. Following this intervention, Respondent took ET to the nurses' station to recheck his blood sugar. No charting of this second blood sugar appears in ET'S chart. Respondent contends that she continued to offer ET sips of milkshake, which he refused. Respondent utilized the procedure of placing her palm on ET's forehead and tilting his head back to offer him milkshake. She contends that at all times ET's eyes remained opened and that he was responsive.
10. Respondent contends that after several attempts were made to offer ET milkshake, she observed ET gurgling as if he was unable to handle the po fluids. She in addition observed mottling of ET'S skin. Respondent further contends that she then performed a modified Heimlich maneuver by pressing of ET's epigastric area from the front, causing ET to spit out a piece of hotdog and milk. No other staff witnessed administration of a Heimlich maneuver by Respondent.
11. At approximately 1745 hours, Respondent called an in-house STAT to her unit. At that point, ET's face was blue and he was making gurgling noises. Pink liquid was on ET's clothing, on Respondent, and on the floor. The facility's supervising RN called 911
12. Respondent did not inform either the supervising RN or emergency staff of ET's most recent Glucometer readings.
13. ET was transferred to the local emergency room by the Marshfield Fire & Rescue Department at approximately 5:55 pm. .
14. Respondent called the Emergency Department staff to inquire about ET's condition during her shift, and Respondent was under the understanding that ET would be returning to the nursing home that evening. ET died at the hospital the following day.

15. In resolution of this matter, Respondent consents to issuance 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.

3. By the conduct described above, Arlene Mary Benton is subject to disciplinary action against her Wisconsin nursing license, pursuant to sec. 441.07(1), Wis. Stats., and Wis. Admin. Code §§ N7.03 (1) and N7.04 (4) and (15). Furthermore, the findings of fact set forth above constitute an agency finding within the meaning of secs. 48.685 and 50.065, Wis. Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the Wisconsin nursing license of Arlene Mary Benton (license #33838) is LIMITED as follows:

Practice restrictions

1. Within six [6] months of the effective date of this Order, Respondent shall successfully complete a rehabilitation review administered by the Wisconsin Department of Health and Family Services. IF RESPONDENT FAILS TO SUCCESSFULLY COMPLETE THE REHABILITATION REVIEW, she shall REFRAIN from caregiver employment in any Wisconsin DHFS-licensed facility until further order of the Department of Health and Family Services.

2. Until otherwise ordered by the Board

a. Respondent shall practice only in settings where she works under supervision by another nurse or other licensed health care professional;

b. Respondent shall refrain from nursing employment as visiting nurse or other home care practitioner; and

c. Respondent shall refrain from working as a charge nurse.

Continuing education

3. Within three [3] months from the date of this order, Respondent shall submit acceptable documentation of successful completion of the University of Wisconsin School of Nursing continuing education program entitled "Legal Issues for Nurses in Today's Health Care Environment", or of completion of other training pre-approved by the Board in the area of legal responsibilities of nursing. Acceptable documentation of completion of continuing education shall include: certification from the sponsoring organization, a statement signed by Respondent verifying completion of course requirements, and proof of successful completion of a post-test acceptable to the Board and/or submission of other documentation of course content comprehension acceptable to the Board.

4. Within six [6] months from the date of this order, Respondent shall submit acceptable documentation of successful completion of at least twelve [12] additional hours of continuing education or of other training pre-approved by the Board in the areas of charting management of the diabetic patient. Acceptable documentation of completion of continuing education shall include: certification from the sponsoring organization as well as a statement signed by Respondent verifying her attendance at the course and completion of course requirements.

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

Required reporting

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

7. Respondent shall notify the Department Monitor of any change of nursing 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

8. 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
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935
FAX (608) 266-2264

Termination of restrictions

9. 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 Wis. Stats. §§227.01(3) and 227.42.

SUMMARY SUSPENSION

10. Violation of any of the other terms of this Order may 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.

Costs

11. Within ninety (90) days from date of this Order, the Respondent shall pay to the Department of Regulation and Licensing partial COSTS of the investigation and prosecution of this action in the sum of FOUR HUNDRED dollars (\$400.00). Payment shall be made by certified check or money order, made payable to the Wisconsin Department of Regulation and Licensing and submitted to the Department Monitor.

Effective date of Order

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

BOARD OF NURSING

By: Linda Sanner	9-5-03
On behalf of the Board	Date