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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
SUZANNE M. HIGGINS, RESPONDENT.	:	LS0305131NUR

The State of Wisconsin, Board of Nursing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 25th day of March, 2004.

Jacqueline Johnsrud, RN
Chairperson
Board of Nursing

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	Case No. LS0305131NUR
SUZANNE M. HIGGINS, L.P.N., RESPONDENT	:	

PROPOSED DECISION AND ORDER

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

Ms. Brenda Lea Lewison
Law Office of Brenda Lewison
135 W. Wells
Suite 340

Milwaukee, WI 53203-1807

Board of Nursing
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

A hearing in the above-captioned matter was held on October 27-29, 2003, before Administrative Law Judge Jacquelynn B. Rothstein. The Division of Enforcement appeared by attorney Steven M. Gloe. Attorneys Brenda Lewison and Lori Eschleman appeared on behalf of Suzanne M. Higgins.

Based on the entire record in this case, the undersigned administrative law judge recommends that the Board of Nursing adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Suzanne M. Higgins, LPN (dob 1/25/60) is duly licensed to practice nursing in Wisconsin (License #29998). Her license was first granted on December 1, 1989.

2. Ms. Higgins's most recent address on file with the Wisconsin Board of Nursing is 3267 North 82nd Street, Milwaukee, Wisconsin.

3. At all times relevant to this action, Ms. Higgins worked as a licensed practical nurse at SouthPointe Healthcare Center located at 4500 West Loomis Road in Greenfield, Wisconsin. SouthPointe Healthcare Center is a nursing home and rehabilitation facility.

4. On or about January 1, 2002, Ms. Higgins charted a fabricated blood sugar reading of 96 for resident EK at 0730 hours.

5. On or about January 4, 2002, Ms. Higgins charted a fabricated blood sugar reading of 90 for resident EK at 0730 hours.

6. On or about January 11, 2002, Ms. Higgins charted a fabricated blood sugar reading for resident EK of 84 at 0730 hours.

7. On or about January 18, 2002, Ms. Higgins charted a fabricated blood sugar reading for resident EK of 89 at 0730 hours.

8. On or about January 18, 2002, Ms. Higgins charted a fabricated blood sugar reading of 76 for resident ML at 0700 hours.

9. On or about January 21, 2002, Ms. Higgins charted a fabricated blood sugar reading for resident ML of 102 at 0700 hours.

CONCLUSIONS OF LAW

1. The Nursing Board has jurisdiction in this matter pursuant to §441.07, Wis. Stats.

2. By having falsified blood glucose readings with respect to patient EK as set forth in Findings of Fact 4-7, Suzanne M. Higgins engaged in unprofessional conduct contrary to §441.07 (1) (d), Wis. Stats., and §§ N 7.03 (1) (a) and 7.04 (4),

(6), and (15), Wis. Admin. Code.

3. By having falsified blood glucose readings with respect to patient ML as set forth in Findings of Fact 8 and 9, Suzanne M. Higgins engaged in unprofessional conduct contrary to §441.07 (1) (d), Wis. Stats., and §§ N 7.03 (1) (a) and 7.04 (4), (6), and (15), Wis. Admin. Code.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that the license of Suzanne M. Higgins to practice nursing in the State of Wisconsin shall be **REVOKED,** beginning the date on which this Order is signed.

IT IS FURTHER ORDERED that the assessable costs of this proceeding be imposed upon Suzanne M. Higgins, pursuant to sec. 440.22, Wis. Stats.

OPINION

On January 22, 2002, Dawn Caballero was employed as a licensed practical nurse at SouthPointe Healthcare Center (SouthPointe). SouthPoint is a nursing home and rehabilitation facility. Ms. Cabellero worked second shift, from 2:30 p.m. to 10:30 p.m. Shortly after she began her shift, she noticed that there were no Supreme strips on her medication cart. Supreme strips are used to collect a patient's blood. Once the blood is collected on the strip, it is inserted into a glucometer. The glucometer "reads" the blood and indicates what a patient's current blood sugar level is. The blood sugar level is displayed as a number, and the person taking that reading is then supposed to record it, along with his or her initials, on the patient's medication administration record. Each glucometer has an internal memory which records, in reverse chronological order, one hundred readings.

Upon discovering that there were no Supreme strips on the medication cart, Ms. Cabellero checked the readings on the glucometer and realized that they were the same ones she had taken the previous night. However, she noticed that there had been subsequent readings recorded in the patient medication records since her last shift. Such readings would have been recorded by the nursing staff from the day shift. Ms. Cabellero therefore checked another glucometer on her unit to see whether the numbers recorded on the patient medication sheet by the day-shift nurse correlated to those in the second glucometer. They did not. She then reported her findings to her manager, which, in turn, caused the management at SouthPointe to initiate a comprehensive investigation into the blood sugar discrepancies.

As part of the investigation, six different glucometers were checked. Each machine's memory was downloaded and recorded. Then those numbers were cross-checked against the blood sugar entries in the patient medication records and against the nursing schedule. The numbers were also checked against physician orders for blood glucose testing and the nursing notes.

Ms. Higgins was assigned to care for patients EK and ML, both of whom resided at the SouthPoint facility. With respect to patient EK, the audit revealed that Ms. Higgins was responsible for caring for her on January 1, 4, 11, and 18, 2002. The audit further revealed that the blood sugar entries Ms. Higgins recorded for EK on each of those dates did not match the results found in any of the glucometers. There were, however, charted readings on those dates for EK before and after Ms. Higgins's entries that did correspond to the readings found in the glucometer.

ML was also a patient of Ms. Higgins's. On January 18 and 21, 2002, Ms. Higgins was responsible for caring for ML. The audit of those dates reveals that Ms. Higgins's blood sugar entries for ML did not match the results found in any of the facility's glucometers. However, there were charted readings for ML on those same dates before and after Ms. Higgins's entries that correlated with the readings found in the glucometers.

In her defense, Ms. Higgins argues that the audit was not well constructed and therefore should not be relied upon. She maintains that because the glucometers do not have an internal mechanism for identifying individual patient readings, no definitive conclusions can be reached from their recordings. Ms. Higgins further argues that the machines were often in disrepair and that she sometimes had to resort to using other glucometers that were "hidden" on the unit. Her arguments are not convincing.

To begin, the construct of the audit was well designed. By analyzing the nursing notes, nursing schedules, medication administration records, physician orders, and glucometer readings, the audit included the key components necessary to determine whether there were any fabricated blood sugar readings. Those components were used to develop a template, which, in turn, led to the discovery of several discrepancies in the medication records for patients EK and ML. While it would have been useful if the glucometer readings had also included individual identifying numbers by patient, that information was not critical to the audit. Indeed, there is no evidence to suggest that such information would have led to any different result.

There was also considerable testimony concerning "hidden" glucometers at the facility, with the implication being that those machines were also available for use and were not included in the audit. That argument is not persuasive. Even if Ms. Higgins had used other glucometers, she never informed the facility's management about them once she was confronted with the blood glucose discrepancies. Such an oversight on her part is unimaginable, particularly when Ms. Higgins was faced with the prospect of not only losing her job, but also her nursing license. She could provide no reasonable explanation as to why these blood sugar discrepancies existed, nor could she plausibly refute the manner in which the audit was conducted. Consequently, her denials are not believable.

Ms. Higgins's actions clearly fell below the minimal standards of professional conduct. Both of these patients, EK and ML, were diabetic and had their blood glucose levels routinely monitored. If a patient's blood sugar level is high or low, certain corrective measures must be taken. By fabricating blood sugar readings Ms. Higgins put her patients' lives at great risk. Her conduct represents a significant departure from the minimal standards of nursing care.

By failing to properly take and record these blood sugar readings, Ms. Higgins demonstrated that she has little regard for her patients. Her conduct was audacious at best and potentially life-threatening at worst. It is incomprehensible that a trained professional such as Ms. Higgins would so blatantly disregard the health and safety of patients in her charge. She has shown no remorse for her actions and has instead denied any wrongdoing. Her conduct is inexcusable.

The question therefore remains as to what the appropriate form of discipline is for Ms. Higgins. Revocation of Ms. Higgins's license has been recommended. It is well established that the objectives of professional discipline include the following: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. MacIntyre*, 41 Wis. 2d 481, 485 (1969).

There is nothing in the record to suggest that imposing any discipline short of revocation would have a rehabilitative effect on Ms. Higgins. Ms. Higgins has denied any wrongdoing in this matter. She does not believe that her actions constituted a danger to the health, safety, or welfare of any of the patients in question. Furthermore, by imposing anything short of revocation, others in the nursing profession may wrongly be encouraged to treat patients in a similar manner. It is imperative that a licensed practical nurse properly take and record the results of a patient's blood glucose test, especially when a patient is a known diabetic. Additionally, Ms. Higgins has previously been disciplined by the Board of Nursing for her negligent care of a patient in another long term care facility. Given Ms. Higgins's prior discipline and in light of her current behavior, revocation of her nursing license will serve to safeguard the public and prevent any further conduct of this kind.

In addition, the imposition of costs against Ms. Higgins is recommended. Section 440.22(2), Stats., provides in relevant part as follows:

> In any disciplinary proceeding against a holder of a credential in which the department or an examining board, affiliated credentialing board or board in the department orders suspension, limitation or revocation of the credentia or reprimands the holder, the department, examining board, affiliated credentialing board or board may, in addition to imposing discipline, assess all or part of the costs of the proceeding against the holder. Costs assessed under this subsection are payable to the department.

The presence of the word "may" in the statute is a clear indication that the decision whether to assess the costs of this disciplinary proceeding against a respondent is a discretionary decision on the part of the Board of Nursing, and that the Board's discretion extends to the decision whether to assess the full costs or only a portion of the costs. The recommendation that the full costs of the proceeding be assessed is based primarily on fairness to other members of the profession.

The Department of Regulation and Licensing is a "program revenue" agency, which means that the costs of its operations are funded by the revenue received from its licensees. Moreover, licensing fees are calculated based upon costs attributable to the regulation of each of the licensed professions and are proportionate to those costs. This budget structure means that the costs of prosecuting cases for a particular licensed profession will be borne by the licensed members of that profession. It is fundamentally unfair to impose the costs of prosecuting a few members of the profession on the vast majority of the licensees who have not engaged in misconduct. Rather, to the extent that misconduct by a licensee is found to have occurred following a full evidentiary hearing, that licensee should bear the costs of the proceeding. Accordingly, the assessable costs of this proceeding should be imposed on Ms. Higgins.

Dated this 19th day of December, 2003, at Madison, Wisconsin.

STATE OF WISCONSIN
DEPARTMENT OF REGULATION & LICENSING
1400 East Washington Avenue
P.O. Box 8935
Madison, Wisconsin 53708
Telephone: (608) 266-5836
FAX: (608) 267-0644

Jacquelynn B. Rothstein
Administrative Law Judge