

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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|                                   |   |                |
|-----------------------------------|---|----------------|
| IN THE MATTER OF THE DISCIPLINARY | : |                |
| PROCEEDINGS AGAINST               | : | FINAL DECISION |
|                                   | : | AND ORDER      |
| CHRISTINE A. SCHUMACHER,          | : | LS0305132NUR   |
| RESPONDENT.                       | : |                |

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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 25<sup>th</sup> day of March, 2004.

Jacqueline Johnsrud, RN  
Chairperson  
Board of Nursing

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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|                                   |   |              |
|-----------------------------------|---|--------------|
| IN THE MATTER OF THE DISCIPLINARY | : |              |
| PROCEEDINGS AGAINST               | : |              |
|                                   | : | LS0305132NUR |
| CHRISTINE A. SCHUMACHER, L.P.N.,  | : |              |
| RESPONDENT                        | : |              |

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PROPOSED DECISION AND ORDER

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

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Department of Regulation & Licensing  
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### **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 Christine A. Schumacher.

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. Christine A. Schumacher, LPN (dob 2/22/47) is duly licensed to practice nursing in Wisconsin (License #7332). Her license was first granted on May 16, 1967.
2. Ms. Schumacher's most recent address on file with the Wisconsin Board of Nursing is 1954 South 73rd Street, West Allis, Wisconsin.
3. At all times relevant to this action, Ms. Schumacher was working 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 9, 2002, Ms. Schumacher entered a fabricated blood sugar reading for resident CL of 440 at 1200 hours.
5. On or about January 15, 2002, Ms. Schumacher entered a fabricated blood sugar reading for resident CL of 140 at 0730 hours.
6. On or about January 18, 2002, Ms. Schumacher entered a fabricated blood sugar reading for resident CL of 89 at 0730 hours.
7. On or about January 18, 2002, Ms. Schumacher failed to take the blood sugar reading for resident CL at 1200 hours.
8. On or about January 23, 2002, Ms. Schumacher failed to take the blood sugar reading for resident CL at 1200 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 CL as set forth in Findings of Fact 4-8, Christine A. Schumacher 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 effective the date on which this Order is signed, the license of Christine A. Schumacher to practice nursing in the State of Wisconsin is **SUSPENDED** for an indefinite period. Ms. Schumacher may apply to the Board for a stay of suspension for a period of three months, only upon her compliance with the conditions and limitations set forth below:

- (a) She take and successfully complete a rehabilitation review administered by the Wisconsin Department of Health and Family Services.
- (b) She take and successfully complete the University of Wisconsin-School of Nursing on-line continuing education program entitled "Legal Issues for Nurses in Today's Health Care Environment."
- (c) She take and successfully complete an additional twelve (12) hours of Board-approved continuing nursing education. Six of those hours shall be in the area of professional ethics and the legal aspects of nursing. The remaining six hours shall be related to the care of diabetic patients.

**IT IS FURTHER ORDERED** that Ms. Schumacher shall only practice under the direct supervision of a licensed professional nurse or other licensed health care professional approved by the Board. Ms. Schumacher shall arrange for her employer to submit quarterly written reports assessing her work performance to the monitor at the Department of Regulation and Licensing. Said reports shall be submitted to the monitor at the following address: Department of Regulation and Licensing-Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935. Ms. Schumacher shall be responsible for all costs and expenses incurred in conjunction with the monitoring, supervision, education, and any other related expenses associated with the compliance of the terms of this Order.

**IT IS FURTHER ORDERED** that the assessable costs of this proceeding be imposed upon Christine A. Schumacher, 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). SouthPointe 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. Schumacher was assigned to care for patient CL, who resided at the SouthPoint facility. With respect to patient CL, the audit revealed that Ms. Schumacher was responsible for caring for him on January 9, 15, 18, and 23, 2002. The audit further revealed that the blood sugar entries Ms. Schumacher recorded for CL 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 CL before and after Ms. Schumacher's entries that did correspond to the readings found in the glucometer.

In her defense, Ms. Schumacher 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. Schumacher 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 the discrepancies in CL's medication record. 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. Schumacher 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. Schumacher 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 denial is not credible.

Ms. Schumacher's actions clearly fell below the minimal standards of professional conduct. Because CL was a diabetic, his blood glucose level was 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. Schumacher put this patient's life 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. Schumacher demonstrated that she has a poor regard for patient care. Her conduct was startling at best and potentially life-threatening at worst. It is incomprehensible that a trained professional such as Ms. Schumacher would so blatantly disregard the health and safety of a patient in her charge. Her conduct is both disturbing and inexcusable.

The question therefore remains as to what the appropriate form of discipline is for Ms. Schumacher. A suspension of Ms. Schumacher'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).

While Ms. Schumacher's conduct is troubling, to be sure, it did not extend to more than one patient. In addition, Ms. Schumacher does not have a history of discipline. Consequently, it is believed that the suspension of her license along with several conditions, including continuing education, should serve to rehabilitate her. By requiring Ms. Schumacher to take additional coursework and by requiring her to work under the direct supervision of another Board-approved, licensed health care professional, the public will be adequately protected and others in the profession will be deterred from engaging in similar conduct.

The imposition of costs against Ms. Schumacher has also been 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 credential 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. Schumacher.

Dated this 19<sup>th</sup> day of December, 2003, at Madison, Wisconsin.

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Jacquelynn B. Rothstein  
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