

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
MARY SPADAFORA, R.N.,	:	LS0408231NUR
RESPONDENT	:	

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

Mary Spadafora, R.N.
5091 South 60th St.
Milwaukee, WI 53220

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

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

Although Respondent has filed an Answer in which she denies certain of the allegations set forth in the Complaint filed on or about August 19, 2004 in the above-referenced matter, for purposes of resolution of these allegations and for not other purpose, Respondent agrees to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board of Nursing. 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. Mary Spadafora (D.O.B. 04/14/1955) is duly licensed as a registered nurse in the state of Wisconsin (license # 68292). This license was first granted on September 16, 1977.

2. Respondent's most recent address on file with the Department of Regulation and Licensing is 5091 South 60th St., Milwaukee, WI 53220.

3. At all relevant times, Respondent owned (through a corporation) and operated Forest Manor, a community based residential facility ("CBRF") licensed by the Wisconsin Department of Health and Family Services ("DHFS") and located at 7115 W. Forest Home Avenue, Greenfield, Wisconsin, 53220. As the licensee of that facility, Respondent was responsible for ensuring that the facility and its operation comply with all applicable laws [Wis. Admin. Code § HFS 83.11(3)(a)].

4. DHFS conducted an inspection of Forest Manor in February and March of 2003. The inspection was completed on March 12, 2003. On March 29, 2003, Forest Home was served with a Statement of Deficiency, which detailed numerous violations of laws and regulations relating to CBRFs, including the following:

(a) Two out of five staff members' personnel files did not contain the background information disclosure forms required by Wis. Stat. § 50.065(4m)(c).

- (b) Staff background checks, required by Wis. Stat § 50.065(2)(b), were not conducted on three out of five staff members.
- (c) Out of state staff background checks, required by Wis. Stat. §50.065(2)(bm) were not conducted on one of the five staff members, who had resided outside of Wisconsin for the requisite three years.
- (d) Although the facility was licensed as a class A semi-ambulatory facility, which required it to admit and retain only those residents that are mentally and physically capable of responding to an electronic fire alarm and exiting the facility without any help or any verbal or physical prompting, the facility admitted and retained a resident that needed assistance with evacuation.
- (e) The facility did not maintain and keep up to date separate, current personnel records on each employee, and did not safeguard personnel records from loss, in three out of eight cases, contrary to Wis. Admin. Code § HFS 83.13(7)(a). At the time of the inspection, three of eight personnel records had been missing for almost three months.
- (f) Although respondent was certified by DHFS as an approved trainer for Standard Precautions, four of five employee records reviewed indicated that staff had not been trained in universal precautions as required by Wis. Admin. Code § HFS 83.14(1)(c).
- (g) Although respondent was certified by DHFS and an approved trainer for First Aid and Procedure to Alleviate Choking, three out of three employees who were required by Wis. Admin. Code § HFS 83.14(1)(d) to complete training relating to fire safety, first aid and procedures to alleviate choking had not received that training.
- (h) Although respondent was certified by DHFS as an approved trainer for Dietary training, four out of five employees interviewed stated that they had received no such training.
- (i) Although respondent was certified by DHFS as an approved trainer for Medication Administration, no such training was provided for four out of five employees who administered medications.
- (j) The CBRF did not have an accounting procedure for keeping track of residents' petty cash.
- (k) The CBRF did not ensure that residents had privacy when being changed or bathed, in violation of Wis. Admin. Code § HFS 83.21(4)(h).
- (l) Although the CBRF is required to ensure that residents received all medications prescribed for them, pursuant to Wis. Admin. Code § HFS 83.21(4)(o), a resident did not receive prescribed medications for three days because there was no medication available.
- (m) Although Wis. Admin. Code § HFS 83.21(4) requires that residents receive prompt and adequate treatment appropriate to their needs, the CBRF provided inadequate incontinence care for one resident, who was not changed as often as she needed to be, and inadequate care relating to the treatment of head lice for two other residents, who were not provided with a second ordered treatment for head lice.
- (n) Although Wis. Admin. Code § HFS 83.21(4)(v) requires individualized service plans ("ISPs") for all residents, four of five residents did not have adequate plans, as follows:
- (1) A resident's ISP did not address major health concerns (seizures), did not address the frequency of services provided, goals, or the service provider responsible;
 - (2) Another resident was diabetic and exhibited threatening and disruptive behaviors. There was no information in the resident's ISP regarding the threatening or disruptive behaviors, and the IPS contained no information regarding the resident's blood sugar parameters or what to do if the blood sugars were outside the parameters;

(3) Another resident suffered from seizures. Her ISP did not reflect what type of seizures she experienced, what to look for, what action to take, or when to contact the physician. The same resident had balance problems. The ISP did not contain an assessment of her falls, what to do to prevent falls, or what services should be provided if she falls. The same resident frequently refused to get out of bed, eat or take medications. The ISP did not address the resident's refusals.

(4) Another resident suffered from Alzheimer's Disease. The ISP did not address what services were to be provided, the frequency of the services, goals, or the person responsible for providing the services.

(p) Although HFS 83.33(2)(g)1 requires CBRFs to screen residents for communicable diseases and get a tuberculin skin test, there was no record of such screening and testing for two residents.

(q) Although Wis. Admin. Code § HFS 83.33(2)(g)3 requires CBRFs to monitor the health of residents and make arrangements for needed health services, the CBRF did not adequately monitor the health of one diabetic resident, and did not document changes in four out of five resident records reviewed.

(1) In the case of the diabetic resident, the resident's blood sugar was not monitored on several dates. There was no indications in the resident's file regarding acceptable blood sugar levels, and the staff was instructed to administer 30 units of insulin in the morning and 15 units in the afternoon, regardless of the blood sugar reading. The resident's physician was not notified when blood sugar levels were high.

(2) Although another resident was admitted with a history of seizures, no further information was available. There was no documentation of seizure activity although staff reported that the resident had approximately one seizure per month. This resident had a physician's order for right hand range of motion exercises after a fall, but there was no indication of whether this order was followed.

(3) Another resident was admitted without a diagnosis. The resident had edema in her lower extremities, but there was no notation in the file. That resident reportedly suffered from a seizure disorder, but there was no such notation in the file. Resident fell on several occasions, and was transported to the hospital, but there was no follow up notation in the file.

(4) Another resident had a physician's visit noted in the file, but there was no documentation regarding why or what the result was. This resident's physician ordered two treatments for head lice, but only one treatment was given.

(r) Although Wis. Admin. Code § HFS 83.33(3)(a)1 requires a written physician's order for any prescription medication taken by a CBRF resident, three residents were receiving prescription medications without written physician's orders in the file.

(s) Although Wis. Admin. Code § HFS 83.33(3)(b)2.d and § HFS 83.33(3)(b)2.e require that all medication storage cabinets and refrigerated medication boxes be locked, medication cabinets at Forest home were observed to be unlocked.

(t) Respondent permitted non-credentialed staff to give insulin injections to a resident, without training them and without ever supervising them giving injections.

(u) Although Wis. Admin. Code § HFS 83.33(3)(e)6 requires that a facility document refusals to take medications and report those refusals to the physician if the refusal appears medically contraindicated, the facility failed to report to physicians when two residents refused medications under circumstances when refusal was medically contraindicated.

(v) Although Wis. Admin Code § HFS 83.33(3)(f)2 requires that residents' medications be reassessed at least quarterly, one resident's record showed no evidence of quarterly assessments.

(w) Although Wis. Admin. Code § HFS 83.33(3)(j)1 requires that controlled substances be destroyed within 72 hours if not used, unused and past-dated medications were observed that had not been destroyed in that time frame.

(x) Although Wis. Admin. Code § HFS 83.42(2)(a) requires that each resident be evaluated within three days of admission for ability to evacuate in emergencies, three of five residents had no such evaluation completed.

(y) The CBRF was observed to have the following safety hazards, in violation of Wis. Admin. Code HFS 83:

(1) Smoke detection systems and heat detectors were not inspected and tested as required; and

(2) Passageways to outside exits were not maintained clear and unobstructed.

(z) The CBRF failed to refer a resident to a resource center under Wis. Stat. §46.283, as required by Wis. Stat. §50.035(4).

5. Six of the deficiencies noted in the 3-12-03 Statement of Deficiency were brought to the attention of the Respondent after a previous inspection on October 15, 2002, and remained uncorrected despite orders to correct those deficiencies. Among those deficiencies were:

(a) Wis. Admin. Code HFS 83.13(7)(a), Employee personnel records;

(b) Wis. Admin. Code HFS 83.33(2)(g)3, CBRF to arrange health visits and document;

(c) Wis. Admin. Code HFS 83.33(3)(a)1, Practitioner's written order for medications;

(d) Wis. Admin. Code HFS 83.33(3)(f)2, Quarterly medication reassessments;

(e) Wis. Admin. Code HFS 83.33(3)(j)1, Destruction of medications;

(f) Wis. Admin. Code HFS 83.43(3)(b)1, Testing of smoke detectors and heat detectors.

6. On May 26, 2003, Respondent notified DHFS that she was surrendering her license to operate the CBRF.

7. In addition to the deficiencies noted by DHFS, witnesses indicate that Ms. Spadafora's operation of the CBRF was deficient in that:

(a) Ms. Spadafora hired a CBRF manager who had no experience managing CBRFs and failed to instruct her CBRF manager on appropriate and legally required resident care. The manager was told only that she was responsible for buying groceries, scheduling staff, and covering shifts if a staff member did not show up for a shift.

(b) Ms. Spadafora spent little time at the CBRF and did not regularly assess residents or review residents' care.

(c) Ms. Spadafora did not share resident care plans with the CBRF manager (care plans were found accidentally in an old cabinet with arts and crafts approximately 2-3 months after manager began employment).

(d) Ms. Spadafora did not ensure that the facility had working fire extinguishers (the manager eventually bought some herself).

(e) Ms. Spadafora instructed the manager that she was limited to spending \$80 per week on groceries for approximately five residents. Because this amount was insufficient to feed the residents, employees brought food from

home and from food pantries to supplement the residents' diets.

(f) When the plumbing backed up and the basement was flooded with sewage, Ms. Spadafora refused to hire help to clean it up and refused to buy latex gloves. The staff bought their own gloves and cleaned the basement, while attempting to care for the residents at the same time.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction to act in this matter pursuant to Wis. Stats. § 441.07(1)(c) and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. The conduct described above constitutes a violation of Wis. Admin. Code § N 7.04(1) and Wis. Stat. § 441.07(1)(d).

3. The conduct described above constitutes a violation of Wis. Admin. Code §§ N 6.03(3), N. 703(1)(a), and Wis. Stat. § 441.07(1)(c).

ORDER

IT IS ORDERED:

1. The stipulation of the parties is approved.

2. Mary Spadafora, R.N. is REPRIMANDED.

3. The license of Mary Spadafora, R.N., (license #68292), to practice as a registered nurse in the State of Wisconsin is LIMITED as follows:

Practice restrictions

4. Until otherwise ordered by the Board:

(a) Respondent shall not own or independently operate any residential or home care facility.

(b) Except as permitted in paragraph 4(f) below, Respondent shall not provide nursing care, delegate nursing care, or supervise the provision of any nursing care for any other person in a residential, home care or visiting nurse setting, and shall not provide nursing care, delegate nursing care, or supervise the provision of any nursing care for any other person in her home unless that person is related to her and consents to such care after being provided with a copy of this Order.

(c) Respondent shall practice nursing only in settings acceptable to the Board. The board will not approve any nursing setting which is not directly supervised (on-site) at all times. Respondent shall obtain approval of any new work setting prior to commencement of nursing duties;

(d) Respondent shall refrain from nursing employment as a temporary nurse or pool nurse;

(e) Respondent shall refrain from working as a charge nurse and shall not supervise anyone in the provision of nursing services or delegate nursing services.

(f) Respondent's current position as a patient care coordinator for Heartland Home Health Care, located at 13255 West Bluemound Road, Suite 202, Brookfield, Wisconsin, 53005 is acceptable to the Board as long as she continues to have no more than incidental supervised direct patient contact (she will, on rare occasions, for example, be asked to help start I.V.s, while in the presence of another R.N.) and have no direct patient responsibilities (she will be scheduling R.N.s and other health care professionals, who will be supervised by others, to see patients).

Required reporting

5. For a period of at least two [2] years 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.

6. Respondent shall notify the Department Monitor of any change of nursing employment and of any significant change in job duties. Notification shall occur in advance of a change of employment and shall include an explanation of the reasons for the change.

Continuing education

7. Within ninety [90] days 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 similar training pre-approved by the Board.

8. Respondent shall be responsible for all expenses incurred for training and other reporting as required by this order.

9. Acceptable documentation shall include:

(a) Certification from the sponsoring organization;

(b) A statement signed by Respondent verifying her attendance at and completion of course requirements, as well as (if required by the Board) a statement signed by a proctor approved by the Board verifying Respondent's attendance and completion of course requirements; and

(c) If requested by the Department Monitor, 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.

Department Monitor

10. 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

Petition for Termination of restrictions

11. Upon completion of: two [2] years of complete, successful and continuous compliance with the terms of this limitation that includes two [2] years 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

12. 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

13. Within ninety (90) days from the date of this Order, the Respondent shall either: (1) pay to the Department of Regulation and Licensing COSTS of the investigation and prosecution of this action in the sum of Four Thousand Two Hundred dollars (\$4,200.00); or (2) provide to the Department Monitor a valid order of a United States Bankruptcy Court providing for payment of the \$4,200 of costs on some other schedule, in which case Respondent shall make payment of the \$4,200 of costs pursuant to that schedule. Payment(s) 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

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

**STATE OF WISCONSIN
BOARD OF NURSING**

Jacqueline Johnsrud, RN
Member of the Board

3-10-05
Date