

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
DEBRA S. MURPHY, R.N.,	:	LS 0509082 NUR
RESPONDENT.	:	

[Division of Enforcement Case # 02 NUR 291 & 03 NUR 226]

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

Debra S. Murphy, R.N.
1905 S. 26th St.
Milwaukee, WI 53215

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Board of Nursing
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

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 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. Debra S. Murphy (f/k/a Webster), R.N., Respondent, date of birth June 26, 1970, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 139341, which was first granted September 21, 2001.
2. Respondent's last address reported to the Department of Regulation and Licensing is 1905 S. 26th St. Milwaukee, WI 53215.

COUNT I

3. While employed as a registered nurse by Trinity Healthcare Nursing and Medical Staffing, a temporary staffing agency in Milwaukee, Wisconsin, on October 26 and 27, 2002, Respondent worked the night shift at Dove Healthcare a Glendale LLC (Dove), a 158-bed nursing home in Glendale, Wisconsin.

4. Patient A, a 91-year-old woman, was admitted to Dove on October 10, 2002 for short term rehabilitation due to a fractured hip and a history of falls. She was noted to be alert and oriented and had no cognitive impairment. Patient A's Resident Care Plan noted, among other things, that she was to be assisted by staff to walk to the bathroom. On October 28 2002, Patient A reported that the following events had occurred. Respondent denies the events.

a. During Respondent's shift on October 26, 2002, Respondent answered Patient A's call light. When Patient A told Respondent she was to have assistance walking to the bathroom, Respondent told her she needed to walk by herself. Respondent sat down in a chair and waited while Patient A walked to the bathroom and then returned to bed.

b. During Respondent's shift on October 27, 2002, Patient A again put her call light on to request assistance in walking to the bathroom. When Respondent came into Patient A's room, Patient A asked for help but Respondent again told her she needed to do it by herself. Respondent told Patient A that she would sit in the chair and wait for her. When Patient A called to Respondent to help her off the toilet, Respondent did not answer. Patient A managed to get up herself, looked out the door into her room and saw Respondent sleeping in the chair. Patient A called out loudly and Respondent finally came into the bathroom and walked behind Patient A as she walked to the bed.

c. Patient A did not fall and did not suffer any injury.

d. Respondent's failure to assist Patient A was a substantial departure from the standard of care ordinarily exercised by a competent registered nurse.

5. Patient B, a 76-year-old woman, was admitted to Dove on October 17, 2002 for rehabilitation after hip surgery. She was noted to be alert and oriented and had no cognitive impairment. During the time Patient B was a resident at Dove Patient B received nursing services from Respondent. On October 28, 2002, the family of Patient B reported that the following events had occurred. Respondent denies the events.

a. During Respondent's shift on October 27, 2002, Patient B activated her call light several times to report that she needed assistance because her urine catheter was leaking on the bed. It was Respondent's responsibility to make certain the leak in Patient B's catheter was stopped. However, each time Respondent answered the call light, she told Patient B that staff were either busy or on break and that someone would be in to help. Neither Respondent nor anyone else assisted Patient B with her catheter on that shift.

b. Patient B was left unassisted and in a urine soaked bed until the day shift came on duty at approximately 6:00 a.m. on October 28, 2002.

c. Respondent's failure to assist Patient B was a substantial departure from the standard of care ordinarily exercised by a competent registered nurse.

6. From March 23, 2003 until her employment was terminated on September 5, 2003, Respondent worked as a staff nurse at the Department of Veterans Affairs Medical Center (VAMC) in Milwaukee, Wisconsin. On August 11, 2003 Respondent was assigned to care for Patient C, a 66-year-old male. On October 28, 2002, nursing staff reported observing the following events. Respondent denies the events.

a. Respondent started Patient C's IV of whole blood and immediately left the unit. This was against VAMC's policy for starting blood, which required the nurse to stay in the room for 15 minutes after the IV was started to make certain it was running correctly.

b. A short time later, another registered nurse entered the room to check on Patient C's roommate and noticed that Patient C's IV line was not primed with blood and no blood was running into Patient C. The other nurse tried to find Respondent to have her correct the problem, but Respondent was not on the unit.

c. Respondent's failure to make certain that Patient C's blood had been started correctly was a substantial departure from the standard of care ordinarily exercised by a competent registered nurse.

COUNT II

7. On September 5, 2003, Respondent, who was then 23 weeks pregnant, was admitted to West Allis Memorial Hospital in West Allis, Wisconsin, complaining of severe abdominal pain and experiencing a large amount of bright red vaginal bleeding.

a. Respondent reported to the hospital nurse that she had used cocaine for recreational purposes the previous night.

b. An ultrasound showed the fetus in a breech position and no fetal heart tones were detected. An emergency hysterotomy and cesarian section was performed to stop the blood loss and the fetus was delivered stillborn.

c. While in recovery at the hospital, Respondent was interviewed by a West Allis police detective. Respondent admitted to using cocaine the night before and having used it a few days before.

d. An autopsy was performed and the Medical Examiner's Final Cause of Death Report ruled the death of the fetus as accidental due to Premature Delivery, Placental Abruption and Maternal Cocaine Use.

8. Respondent did not have any legal order to possess or use cocaine, a Schedule II controlled substance. Respondent's possession and use of cocaine without the order of a practitioner is a violation of Wis. Stat. § 961.41(3g)(am),

which is a law substantially related to practice under Respondent's license.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction over this matter pursuant to Wis. Stat. § 441.07 and authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in the conduct set out in Count I above, has committed negligence as defined by Wis. Adm. Code § N 7.03(1) and is subject discipline pursuant to Wis. Stat. § 441.07(1)(c).

3. Respondent, by engaging in the conduct set out in Count II above, has administered, supplied and obtained drugs other than in the course of legitimate practice and as otherwise prohibited by law and has committed misconduct and unprofessional conduct as defined by Wis. Adm. Code § N 7.04(2) and is subject discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED that Debra S. Murphy, R.N., Respondent, is REPRIMANDED for the conduct set out in Count I above.

IT IS FURTHER ORDERED, effective the date of this Order:

SUSPENSION

- A.1. The license of Debra S. Murphy, R.N., to practice as a registered nurse in the State of Wisconsin is SUSPENDED for an indefinite period.
- A.2. Respondent shall mail or physically deliver all indicia of nursing licensure to the Department Monitor within 14 days of the effective date of this Order.
- A.3. Upon a showing by Respondent of continuous, successful compliance for a period of at least five (5) years with the terms of this Order, including at least 600 hours of active nursing for every year the suspension is stayed, the Board may grant a petition by the Respondent under paragraph D.4. for return of full licensure.
- A.4. The Board may, on its own motion or at the request of the Department Monitor, grant full licensure at any time.

STAY OF SUSPENSION

- B.1. The suspension is hereby stayed based upon Respondent having provided proof, which was determined by the Board or its designee to be sufficient, that Respondent is in compliance with the provisions of Sections C and D of this Order.
- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of Sections C or D of this Order. Repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Board may, in conjunction with any removal of any stay, prohibit the Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
 - (a) Mailing to Respondent's last-known address provided to the Department of Regulation and Licensing pursuant to Wis. Stat. § 440.11; or
 - (b) Actual notice to Respondent or Respondent's attorney.

- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.
- B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. RL 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

CONDITIONS AND LIMITATIONS

Treatment Required

- C.1. Respondent shall enter into, and shall continue, in a drug and alcohol treatment program at a treatment facility (Treater) acceptable to the Board or its designee. Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Respondent shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation, drug monitoring and treatment program as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as Treater, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater, but not less than twice per month for the first year. Therapy may end only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in the drug and alcohol treatment program. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department of Regulation and Licensing, Division of Enforcement to: (a) obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

AA/NA Meetings

- C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholic Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater, but no less than twice per week. Attendance of Respondent at such meetings shall be verified and reported monthly to Treater and the Department Monitor.

Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, Treater and the Board or its designee.
- C.10. Respondent shall abstain from all use of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation.
- C.11. Respondent shall report all medications and drugs, over-the-counter or prescription, taken by Respondent to Treater

and the Department Monitor within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. If Respondent has not provided a release as required by C.9 above, within 24 hours of a request by Treater or the Board or its designee, Respondent shall provide releases in compliance with state and federal laws. The releases shall authorize the person who prescribed, dispensed, administered or ordered the medication to discuss Respondent's treatment with, and provide copies of treatment records to, the requester.

Drug and Alcohol Screens

- C.12. Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department pursuant to Wis. Adm. Code § RL 7.11 ("Approved Program"). A list of Approved Programs is available from the Department Monitor.
- C.13. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
 - (a.) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 - (b.) Production of a urine specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.14. The Approved Program shall require the testing of urine specimens at a frequency of not less than 56 times per year, for the first year of this Order. After the first year, the frequency may be reduced only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.15. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Treater or the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- C.16. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to do any or all of the following: (a) submit additional urine specimens, (b) submit blood, hair or breath specimens, (c) furnish any specimen in a directly witnessed manner.
- C.17. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody.
- C.18. The Approved Program shall submit information and reports to the Department Monitor in compliance with the requirements of Wis. Adm. Code § RL 7.11.

Practice Limitations

- C.19. Respondent shall not work as a nurse or other health care provider in a setting in which Respondent has access to controlled substances.
- C.20.a. Except as allowed in paragraph b., Respondent shall practice only under the direct supervision of a licensed nurse or other licensed health care professional approved by the Board or its designee and only in a work setting pre-approved by the Board or its designee. Except as allowed in paragraph b., Respondent may not work in a home health care, hospice, pool nursing, or agency setting.
 - b. Respondent is currently providing home health care to one patient, who has confirmed to the Division that no controlled substances are presently located on their premises and that no controlled substances will be at their premises while Respondent is providing services. Respondent is allowed to continue to provide home health care services to that patient in that location so long as no controlled substances are there. Respondent may work in other home health care settings only if the setting is first approved by the Board or its designee.
- C.21. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel at all settings where Respondent works as a nurse or care giver or provides health care, currently or in the future.
- C.22.a. It is Respondent's responsibility to arrange for written reports from supervisors to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance, and shall include the number of hours of active nursing practice worked during that quarter.
 - b. It is Respondent's responsibility to arrange for written reports from any home health care patient or responsible member of the patient's family to be provided to the Department Monitor on a quarterly basis, as directed by the

Department Monitor. These reports shall state whether controlled substances are on the premises, assess Respondent's work performance, and shall include the number of hours of active nursing practice worked during that quarter.

- C.23. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

MISCELLANEOUS

Department Monitor

- D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor
Wisconsin Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 267-3817
department.monitor@drl.state.wi.us

Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent. Additionally, every three (3) months the Respondent shall notify the Department Monitor of the Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.

Change of Treater or Approved Program by Board

- D.3. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification of Limitations or Termination of Order

- D.4. Respondent may petition the Board for modification of the terms of this Order or termination, however no such petition for modification shall occur earlier than one year from the date of this Order and no such petition for termination shall occur other than in compliance with paragraph A.3. Any such petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.

Costs of Compliance

- D.5. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Costs of Proceeding

- D.6. Respondent shall pay costs of \$2,338.00 to the Department of Regulation and Licensing, as follows: \$1,200 within 6 months and \$1,138 with 1 year of the date this Order. In the event Respondent fails to timely submit any payment of costs, the Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

Additional Discipline

- D.7. In addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for

a separate disciplinary action pursuant to Wis. Stat. § 441.07.

Wisconsin Board of Nursing

By: Marilyn Kaufmann
A Member of the Board

3/9/06
Date