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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF

DISCIPLINARY PROCEEDINGS AGAINST

FINAL DECISION AND ORDER

GARY J. TRITT, R.N.,
RESPONDENT.

LS06111610NUR

Division of Enforcement Case 05 NUR 86

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

Gary J. Tritt, RN
6260 County Hwy M
Winneconne, WI 54986

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

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. 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. Gary J. Tritt (dob: 7/1/51) is and was at all times relevant to the facts set forth herein a professional nurse licensed in the State of Wisconsin pursuant to license #58731. This license was first granted 9/21/73.

2. On 4/28/06, Respondent was convicted in the Circuit Court for Winnebago County, Wisconsin, of felony Medicaid fraud, contrary to Wis. Stat. § 49.49(1)(a)1. Respondent was ordered to pay a fine and costs of \$1383. These actions grew out of Respondent's in-home care of a patient on a ventilator, during which Respondent submitted time sheets showing that he worked during hours when he was, in fact, on vacation, or did not, in fact, work.

3. On 6/30/04, Respondent was stopped while driving in the City of Waupun, Wisconsin; he was found to be in possession of marijuana, a Schedule I controlled substance, and was ultimately convicted on 7/26/05, in the Dodge County Circuit Court for operating a motor vehicle while influenced by a controlled substance. Following an evaluation at the Winnebago County Department of Human Services, Respondent was diagnosed with Irresponsible Use of a Controlled Substance.

4. On a day unknown, but in November or December, 2004, Respondent was providing nursing services to the patient referred to in par. 2, above. On that occasion, the patient, who is classified as a moderately-functioning Down's Syndrome patient, soiled his pants; in the course of changing the patient's clothes, Respondent struck the patient on his buttocks.

CONCLUSIONS OF LAW

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

B. The conduct described in paragraphs 2 and 3, above, violated Wis. Adm. Code § N 7.03(2) and § N 7.04(1), (2) and (15). The conduct described in paragraph 4, above, violated Wis. Stat. § 441.07(1)(b) and (d) and Wis. Adm. Code § N 7.04(4). Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

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

IT IS FURTHER ORDERED, Gary J. Tritt, RN, is REPRIMANDED for his unprofessional conduct in this matter.

IT IS FURTHER ORDERED, Respondent's license to practice nursing is LIMITED as follows: Respondent shall not consume any controlled substance listed in Schedules I-IV, without a valid prescription from an authorized practitioner. Respondent shall, upon the request of any investigator of the Department of Regulation & Licensing, or any agent of the Department (including a law enforcement officer), forthwith provide a sample of his blood, breath, urine, or hair.

IT IS FURTHER ORDERED, Respondent's license to practice nursing is LIMITED as follows: Respondent shall report any arrest or citation by any law enforcement officer or agency, within or without Wisconsin, to the Department Monitor, within 1 business day of his release from custody (except parking citations and traffic citations for offenses which do not involve intoxicants or controlled substances, *e.g.* speeding). The Department Monitor may be contacted as follows:

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

It is Respondent's responsibility to ensure that the report is actually received by the Department Monitor; undelivered e-mail or recorded telephone messages shall not constitute a "report" within the meaning of this Order. The report shall include: the location, date and time of the arrest or citation, the offense for which arrested or cited, the name of the law enforcement agency which conducted the arrest or issued the citation (including the name of the arresting or issuing officer, if known), and copies of any documents provided to Respondent by the law enforcement agency in connection with the incident.

IT IS FURTHER ORDERED, Respondent shall provide his nursing employers with a copy of this Order before engaging in any nursing employment.

IT IS FURTHER ORDERED, Respondent shall pay costs of \$750 to the Department of Regulation and Licensing, before his license is next renewed.

IT IS FURTHER ORDERED, that violation of any of the 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. 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.

Dated at Madison, Wisconsin this 16th day of November, 2006.

Marilyn Kaufmann
Chairperson
Board of Nursing