

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**  
:  
THOMAS R. MESSER, R.N., : LS0610271NUR  
RESPONDENT. :

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Division of Enforcement Case #03 NUR 299

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

Thomas R. Messer, RN  
423 Seacroft Ct. # 118N  
Mequon, WI 53902

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

A formal Complaint was filed in this matter on 10/27/06. The prosecutor and Respondent in this matter agreed 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 now reviewed this Stipulation, and approves it.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

#### FINDINGS OF FACT

1. Thomas R. Messer (D.O.B. 9/13/51) is duly licensed in the state of Wisconsin as a professional nurse (license # 74263). This license was first granted on 9/1/79.
2. On 5/3/91, Respondent was disciplined by the Board as an impaired practitioner; he had been criminally convicted in the Circuit Court of Ozaukee County of misdemeanor obtaining a prescription by fraud in that he had created a false prescription for himself for a butalbital product on two occasions, without a prescriber's order. Respondent was subsequently convicted of the same offense on 9/17/93, for conduct occurring on 2/27/93, in Ozaukee County. Following a period of treatment and compliance with the Board's order, his license was restored to unlimited status on 11/18/98.
3. On 11/1/03, Respondent was the PM shift supervisor at the Signet Healthcare and Rehabilitation Center, Prescott, Wisconsin. At approximately 8:00 PM, resident M.H., a woman born in 1906, was observed to be crying and anxious by staff. The cause of the resident's distress appeared to be a memory of her mother's death, several decades previous, and her belief that she needed to attend the funeral. Staff's attempts to calm the resident with verbal measures were unsuccessful. Respondent then obtained and administered a dose of lorazepam, a controlled substance, to the resident, without a physician's order. The resident did have an order for this medication, but her prescribed dosage had been administered at 4:00 PM, and such administration had been charted. Respondent then did not chart the additional administration, nor notify the physician that it had been administered. The resident was unusually somnolent for the next 24 hours.

4. Following the above incident, Respondent was discharged by his employer; the employer then examined other charts for irregularities, and this audit revealed that Respondent had charted the administration of the following medications on the following days, but the medications were found to still be in each resident's supply:

B.H.	10/6/03	Nitro patch 0.2mg (was to be removed at HS, but was not removed)
D.W.	10/22/03	Metoprolol 25mg
B.R.	10/23/03	Keppra® 2@500mg
M.A.	10/31/03	Nitro patch 0.4mg (was to be removed at HS, but was not removed)
D.A.	10/31/03	Seroquel®, Exalon®, Senemet®, Comtan®
E.W.	11/2/03	Zyprexa®, Zantac®, Depakote®, Mirapex®, Roxanal®, aspirin, multivitamin

### CONCLUSION OF LAW

By the conduct described in pars. 3-4, above, respondent is subject to disciplinary action against his license to practice as a registered nurse in the state of Wisconsin, pursuant to Wis. Stat. § 441.07(1)(b) and (d), and Wis. Adm. Code §§ N 7.03(1)(a) and (b), and N 7.04(1), (2), and (15).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that :

1. Thomas R. Messer, R.N., is REPRIMANDED for his unprofessional conduct in this matter.
2. The license of Thomas R. Messer to practice as a nurse in the state of Wisconsin is LIMITED as follows:
  - a. Respondent shall not practice nursing in any setting in which he is responsible for the scheduled administration of any medication, including over-the-counter products, nor shall he be responsible for supervising others who are responsible for the administration of medication, including over-the-counter products. Respondent may administer medication needed on an emergent basis.
  - b. Respondent may petition the Board for a modification of the above limitation, after he has successfully completed no less than 12 hours of continuing education in the area of medication administration, documentation, and nursing ethics. As part of the petition, he shall meet with the Board for the purpose of satisfying the Board that he understands and will comply with the standards of the profession in the areas of medication administration, documentation, and ethics. The decision to modify the limitation, in whole or in part, is entirely within the discretion of the Board, and failure to grant a petition in whole or in part shall not give rise to any right to hearing on the basis of a denial of the petition, in whole or in part.
  - c. Respondent shall 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. Such reporting shall continue until Respondent has completed two years of nursing practice, and not less than 1200 hours of nursing practice, whichever is longer. If any report reveals unprofessional conduct, or substandard or negligent practice, the Board may require additional continuing education or impose further limitation, to deal with the issue(s).
  - d. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) calendar days of the date of a change. Respondent shall provide his nursing employers with a copy of this Order before engaging in any nursing employment. Respondent shall, upon request of the Board or its agent, or any Division of Enforcement employee (any of whom may act through a law enforcement officer), submit a sample of his urine, blood, breath, or hair, forthwith. These limitations are permanent.
3. 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.

IT IS FURTHER ORDERED that respondent shall pay the costs of investigating and prosecuting this matter, in the amount of \$2,900, before January 5, 2008. If the costs are not paid in full by that date, Respondent's license shall be SUSPENDED by staff without further notice or hearing, until paid in full.

WISCONSIN BOARD OF NURSING

By: Marilyn Kaufmann  
A Member of the Board

4/19/07  
Date