

# 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 :  
DISCIPLINARY PROCEEDINGS AGAINST :  
EDWARD J. LOBACZ, R.N., : FINAL DECISION AND ORDER  
RESPONDENT. : LS0708306NUR

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Division of Enforcement Case # 04 NUR 088

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

Edward J. Lobacz, R.N.  
517 60<sup>th</sup> St. Apt. 2  
Kenosha, WI 53140

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

Board of Nursing  
Department of Regulation & 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 the attached Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Edward J. Lobacz, R.N., (DOB 08/14/1946) is duly licensed as a registered nurse in the state of Wisconsin (license # 30-119128). This license was first granted on March 8, 1995.
2. Respondent's most recent address on file with the Wisconsin Board of Nursing is 517 60<sup>th</sup> Street Apartment. 2, Kenosha, Wisconsin, 53140.
3. In or about 2003-2004, Respondent was employed by the Wisconsin Department of Corrections as a Nurse Clinician 2 at Racine Correctional Institution in Sturtevant, Wisconsin.
4. Respondent was terminated from his employment due to concerns regarding his nursing practice, including the following:

- (a) Respondent, while on-call, refused to return to the facility when an inmate who had had an organ transplant had failed to receive his anti-rejection medication. Respondent stated that he was too tired to come in, and would not have been able to do anything if the medication was not on-site. The medication, which was in fact on-site, was given to the inmate the next morning by another nurse. Respondent states that he worked noon to 8:00 p.m. that day and was never made aware during his shift that the inmate did not receive his 8:00 a.m. anti-rejection medication. The facility's infirmery pharmacy personnel were on staff at 8:00 a.m. and present throughout the day. Respondent was not informed that the inmate had missed his medication until 10:30 p.m. Respondent states that he left a message for another R.N. regarding this incident and also called the next morning to follow up. The inmate did not suffer any complications from the delay in administration and the inmate did not require any additional medical attention or follow-up care as a result of the incident.
- (b) Respondent evaluated a patient with a rash and ordered Diphenhydramine, 50 mg BID, in the name of Dr. J, without consulting Dr. J. or any other physician.
- (c) An inmate was prescribed an antibiotic to which he was allergic. Respondent changed the order without calling the on-call physician. Respondent notes that he identified that the inmate was allergic and that the inmate did not suffer any complications and did not require any follow-up care as a result of the incident.
- (d) Respondent ordered Trazodone for an inmate because the inmate stated he had been on it before. Respondent did not notify the on-call physician. Respondent states that the inmate had an order for Trazodone that expired one day earlier, and the inmate had not received a timely psychiatric evaluation for the continuation of Trazodone. Respondent attempted to schedule a psychiatric evaluation which included a review of all psychiatric medications.
- (e) Respondent failed to process an order from a nurse practitioner for a fasting lipid panel. Respondent states that he obtained results of a fasting lipid panel that was previously done on November 12, 2003 at Dodge Correctional Institute and showed the nurse practitioner a fax of the results. Respondent states that he was told by the nurse practitioner that he did not have to schedule the current fasting lipid panel order. The nurse practitioner denies being shown the previous lipid panel and denies telling Respondent he did not have to schedule a current fasting lipid panel order. Respondent scheduled the remaining lab work to be drawn on December 5, 2003, the next scheduled lab draw date.
- (f) Respondent refused to process an order for a cardiac event monitor, leaving an inmate without the ordered monitor for three days. Respondent states that he attempted to obtain phone numbers in order to obtain instruction sheets for setting up the cardiac monitor. No other staff person was aware of how to set up the monitor. Respondent states that he was off the next two days, and other staff did not follow up on the order because the UW-Madison Clinic was not open to provide directions and support.
- (g) Respondent failed to sign progress notes on at least two occasions.

### CONCLUSIONS OF LAW

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

2. The conduct described in paragraph 4 above constitutes a violation of Wisconsin Administrative Code §§ N 7.03(1) and N 7.04(2) and (5), and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(c) and (d).

### ORDER

IT IS ORDERED :

- 1. Edward J. Lobacz is REPRIMANDED.
- 2. The license of Edward J. Lobacz, R.N. to practice nursing in the State of Wisconsin, and his privilege to practice pursuant to the Multi-State Nursing Compact, is LIMITED as follows:
  - (a) Respondent, at his own expense, shall complete six (6) hours of pre-approved continuing education in

medication administration and documentation, and six (6) hours of pre-approved continuing education in the scope of nursing practice, within 90 days of the date of this Order. Respondent is responsible for finding appropriate courses and submitting the course information to the Board for approval prior to taking the courses and in sufficient time to obtain board approval within the 90 day time frame, taking into account the board's meeting schedule.

- (b) For at least two years from the date of this order, Respondent shall practice only in a work setting pre-approved by the Board or its designee. Respondent may not work in a home health care, hospice, pool nursing, or agency setting.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) Pursuant to Uniform Nursing Licensure Compact regulations, Respondent's nursing practice is limited to Wisconsin during the pendency of this limitation and any subsequent related limitations. This requirement may be waived only upon the prior written authorization of both the Wisconsin Board of Nursing and of the regulatory board in the state in which Respondent proposes to practice.
- (g) After two years, Respondent may petition the Board to end this limitation. If the Board, in its discretion, continues the limitation beyond two years, Respondent may request a hearing on the continuation of the limitation under 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 continuation of the limitation during the pendency of the hearing process.

3. Respondent shall, within six (6) months from the date of this Order, pay costs of this proceeding in the amount of Two Thousand Dollars (\$2,000.00). Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935  
Telephone (608) 267-3817  
Fax (608) 266-2264

4. 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. In the event Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, the Respondent's license (# 30-119128) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

5. This Order is effective on the date of its signing.

Board of Nursing

By: Marilyn Kaufmann  
A Member of the Board

8/30/07

Date

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST :  
 : STIPULATION  
EDWARD J. LOBACZ, R.N., : LS# \_\_\_\_\_  
RESPONDENT. :

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Division of Enforcement Case # 04 NUR 088

Edward J. Lobacz, R.N., personally on his own behalf; and Jeanette Lytle, attorney for the Department of Regulation and Licensing, Division of Enforcement, stipulate:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (case # 04 NUR 088). Respondent consents to the resolution of this investigation by stipulation.

2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has been provided an opportunity to obtain the advice of legal counsel prior to signing this stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board of Nursing. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board of Nursing ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

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Edward J. Lobacz, R.N.  
517 60<sup>th</sup> St. Apt. 2  
Kenosha, WI 53140

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Date

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

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Date