

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
CAROL A. PATEL, L.P.N.,	:	LS0712137NUR
RESPONDENT.	:	

Division of Enforcement Case # 04 NUR 132

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

Carol A. Patel, L.P.N.
10204 W. Jonen Street
Milwaukee, WI 53224

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. Carol A. Patel, L.P.N., (DOB 04/09/1956) is duly licensed as a practical nurse in the State of Wisconsin (license #31-22216). This license was first granted on December 5, 1979, and expired on April 30, 2007. Pursuant to Wis. Stat. § 440.08(3), Respondent has a right to renew her license upon payment of fees until April 30, 2012.

2. Respondent's most recent address on file with the Wisconsin Board of Nursing is 10204 W. Jonen Street, Milwaukee, Wisconsin, 53224.

3. On or about April 25, 2004, Respondent was working as an L.P.N. at Menomonee Falls Health Care Center. She was monitoring patient R.S., who was in a wheelchair, near the nurse's station.

4. R.S. repeatedly attempted to get out of his wheelchair, and Respondent had to rush to prevent him from

falling. She became frustrated.

5. Respondent raised her voice and cursed at R.S. and forcibly pushed his head back against the headrest of the wheelchair several times.

6. Respondent was disciplined in 1999 for slapping an elderly patient assigned to her care.

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 5 above constitutes a violation of Wisconsin Administrative Code § NR 7.04(4) and subjects Respondent to discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

IT IS ORDERED:

1. In the event that Carol A. Patel, L.P.N., reinstates her license to practice as a nurse in the State of Wisconsin, the license will be SUSPENDED immediately upon issuance, for an indefinite period of time.

2. Respondent may petition the Board to end the suspension, as follows:

a. Respondent shall have, at Respondent's own expense, undergone a mental health assessment by an experienced mental health care practitioner.

i. The assessor must not have treated Respondent at any time and shall have been approved by the Board, with an opportunity for the Division to make its recommendation, prior to the evaluation being performed.

ii. The Division shall provide the assessor and Respondent with those portions of the investigative file which the Division believes may be of assistance in performing the assessment, including Respondent's treatment records or evaluations in the possession of the Division. Respondent may provide the assessor with any information Respondent believes will be of assistance in performing the assessment and shall immediately provide copies of that information to the Division.

iii. Respondent shall authorize the assessor to provide the Board, or its designee, and the Division with the assessment report and all materials used in performing the assessment and shall provide the Board, or its designee, and the Division with the opportunity to discuss the assessment and findings with the assessor.

iv. The assessor shall have provided an opinion to a reasonable degree of professional certainty that Respondent is able to practice with reasonable skill and safety of patients and public and does not suffer from any condition which prevents her from practicing in that manner.

b. If the assessor has rendered the opinion required by subparagraph a.iv., the Board shall end the suspension. The Board will then limit Respondent's license in a manner to address any concerns the Board has as a result of the conduct set out in the findings of fact or the period of time Respondent has not practiced nursing and to address any recommendations resulting from the assessment, including, but not limited to:

i. Psychotherapy or other treatment, at Respondent's expense, by a practitioner approved by the Board, to address specific treatment goals, with periodic reports to the Board by the therapist.

ii. Additional professional education in any identified areas of deficiency, including but not limited to stress/anger management training and training in dealing with difficult/combatative patients.

iii. Restrictions on the nature of practice, hours of practice, or practice setting, or requirements for supervision of practice, by a professional approved by the Board, with periodic reports to the Board by the supervisor.

iv. Requiring Respondent to appear before the Board on an annual basis, if requested by the Board, to review the progress of any treatment and rehabilitation.

c. The suspension shall not end until Respondent has paid to the Department of Regulation and Licensing costs of this proceeding in the amount of Nine Hundred Dollars (\$900.00) pursuant to Wis. Stat. § 440.22(2).

3. If following the suspension, limitations are placed on Respondent's license, Respondent may petition the Board to modify or end the limitations.

4. If Respondent believes that the Board's refusal to end the suspension is inappropriate or that any limitation imposed or maintained by the Board under paragraphs 2b or 3 is inappropriate, Respondent may seek a class 1 hearing pursuant to Wis. Stat. § 227.01(3)(a) in which the burden shall be on Respondent to show that the Board's decision is arbitrary or capricious or inconsistent with this Order. The suspension or limitations on Respondent's license shall remain in effect until there is a final decision in Respondent's favor on the issue.

5. All requests, notifications and payment shall be mailed, faxed or delivered to:

Department Monitor

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

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

Board of Nursing

By: Marilyn Kaufmann
A Member of the Board

12/13/2007

Date

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
CAROL A. PATEL, L.P.N.,	:	LS# _____
RESPONDENT.	:	

Division of Enforcement Case # 04 NUR 132

Carol A. Patel, L.P.N., personally on her 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 132). Respondent consents to the resolution of this investigation by stipulation.
2. Respondent understands that by signing this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, 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 her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 her 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 her 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. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order would constitute an agency finding within the meaning of Wis. Stats. §§ 48.685 and 50.065. Should Respondent wish to work in a Wisconsin DHFS-licensed facility, he will need to pass a Rehabilitation Review through DHFS prior to commencement of such employment.

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

Carol A. Patel, L.P.N.
10204 W. Jonen Street
Milwaukee, WI 53224

Date

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

Date