

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
CHERYL ANN MILLER, R.N.,	:	LS0811069NUR
RESPONDENT.	:	

[Division of Enforcement Case # 08 NUR 059]

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

Cheryl Ann Miller, R.N.
E1780 Amy Street
Waupaca, WI 54981

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. Cheryl Ann Miller, R.N., Respondent, date of birth March 16, 1948, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 82937, which was first granted September 23, 1982.
2. Respondent's address of record with the Department of Regulation and Licensing is E1780 Amy Street Waupaca, WI 54981.
3. At all times relevant to this matter, Respondent was employed as a registered nurse (RN) at Lakeview Manor, a nursing home in Weyauwega, Wisconsin.
4. Resident A (DOB 4/14/19) was admitted to Lakeview Manor on September 5, 2002 with diagnoses of major depression with psychotic features and edema. Resident A required extensive assistance with all activities of daily living.
5. Resident A's plan of care dated January 24, 2008 indicated that Resident A had congestive heart failure, atrial fibrillation and hypertension. The plan directed staff to monitor for any signs of cardiac distress, shortness of breath, cyanosis, congestion, increased edema and change in level of alertness and restlessness, and to report, if noted. The plan also indicated to have a physician evaluation, if needed.
6. Resident A exhibited cold symptoms since January 22, 2008 with nasal congestion and coughing, and on January

30, nursing staff noted wheezing and decreased oxygen saturation.

7. At 7:45 a.m. on February 1, 2008. Resident A became diaphoretic with labored breathing and audible congestion. His oxygen saturation level declined to 83% on room air. A licensed practical nurse (LPN) notified Respondent the charge RN, who instructed the LPN to give Resident A oxygen at 2 liters per minute. Within ten minutes of receiving oxygen, Resident A quieted, began breathing normally and his oxygen saturation level rose to 94%. The fact that Resident A's condition now appeared to require oxygen constituted a significant change in Resident A's condition. Respondent did not fully assess Resident A by listening to his lungs, nor did she notify the physician of this significant change.

8. Approximately four hours later, Resident A's oxygen was removed for his noon meal. As a result, Resident A's oxygen saturation level declined to 79% on room air and the oxygen was restarted. Respondent was notified of Resident A's condition but failed to conduct a thorough assessment. Respondent also again failed to notify the physician of the significant drop in oxygen saturation when oxygen was not in use, and that oxygen was required to keep Resident A's oxygen saturation at an acceptable level.

9. At 4:00 p.m., Resident A's oxygen was removed in anticipation of his evening meal and his oxygen saturation levels declined to 71%. Resident A became unresponsive and the physician was notified. Resident A required emergency transfer to the hospital where he was admitted for congestive heart failure and pneumonia.

10. Respondent told a Division of Enforcement consumer protection investigator that she did not listen to Resident A's lungs, as was required for a full assessment, because in the past, Resident A had been uncooperative due to his dementia. Respondent explained that he would talk or sing as she attempted to auscultate his lungs. Respondent indicated she would have contacted a physician if the patient had not responded positively to administration of the oxygen.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to Wis. Stat. § 441.07 and has 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 above, has committed negligence as defined by Wis. Adm. Code § N 7.03(1)(b) and (c) and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(c).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Cheryl Ann Miller, R.N., is hereby REPRIMANDED for the above conduct.

2. Respondent's license is LIMITED as follows:

a. Within 180 days of the date of this Order, Respondent shall provide proof sufficient to the Board, or its designee, of Respondent's satisfactory completion of a total of twelve (12) hours of continuing education in the following areas: six (6) hours in dealing with severe dementia residents and six (6) hours in completing assessments which course(s) shall first be approved by the Board, or its designee.

b. Upon Respondent providing proof sufficient to the Board, or its designee, that she has completed the education, the Board shall issue an Order removing this limitation of Respondent's license.

3. Respondent shall, within 180 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$875.00 pursuant to Wis. Stat. § 440.22(2).

4. Requests for approval, notification of completion of educational programs and payment shall be faxed, mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue

P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Telephone (608) 267-3817

5. In the event that Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

Wisconsin Board of Nursing

By: Marilyn Kaufmann
A Member of the Board

11/6/08
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
CHERYL ANN MILLER, R.N.,	:	LS _____ NUR
RESPONDENT.	:	

[Division of Enforcement Case # 08 NUR 059]

It is hereby stipulated and agreed, by and between Cheryl Ann Miller, R.N., Respondent; and Sandra L. Nowack, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent’s licensure by the Division of Enforcement (file 08 NUR 059). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
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 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. 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 the 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 ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or her attorney, if any, 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 case 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.

Cheryl Ann Miller, R.N.
Respondent
E1780 Amy Street
Waupaca, WI 54981

Date

Sandra L. Nowack
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date