

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
DEAN L. DRAKE, R.N.,	:	LS0811063NUR
RESPONDENT.	:	

[Division of Enforcement Case # 05 NUR 340]

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

Dean L. Drake, R.N.
7281 Highway VV
Sun Prairie, WI 53590

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 adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Dean L. Drake, R.N., Respondent, date of birth November 17, 1965, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 145784, which was first granted September 30, 2003.

2. Respondent's last address reported to the Department of Regulation and Licensing is 7281 Highway VV, Sun Prairie, WI 53590.

3. In November 2004, Respondent was employed as a registered nurse in the Emergency Room (ER) at Beaver Dam Community Hospital (BDCH) in Beaver Dam, Wisconsin.

4. In the early morning hours on November 23, 2004, Ms. A, who was 17 years of age, and Ms. B, who was 21 years of age, sought treatment at Beaver Dam Community Hospital following a motor vehicle accident. Both were seen by Respondent in the ER. Ms. A and Ms. B were placed in separate examination rooms across the hall from each other and Respondent took Ms. A's and Ms. B's medical histories and vital signs.

5. Ms. A and Ms. B contend that Respondent made the following inappropriate sexual comments while he was providing nursing care to them. Respondent denies making some of the comments but agrees that he did make comments of a sexual nature which were inappropriate in that setting and in those circumstances.

- a. Respondent instructed Ms. A to change into a hospital gown prior to having x-rays taken and asked Ms. A if she needed help. Ms. A says that when she declined, Respondent commented "You're no fun. I've seen chicks naked before" and left the room to check on Ms. B.
- b. Ms. B says that Respondent entered her room without knocking while she was unclothed in the midst of changing into a hospital gown. Ms. B says she was startled and that using an expletive, she loudly told him to get out. Ms. A says she heard this from her room.
- c. Ms. A says Respondent returned to her room and said that Ms. B was gorgeous, had nice breasts and that he liked her clitoral piercing. Ms. B says she could hear Respondent's remarks to Ms. A about Ms. B.
- d. Ms. A returned from x-ray and Respondent gave her pain medication and a snack. Ms. A began watching a television program in which viewers called in with questions about sex. Respondent commented on the program, asked Ms. A related questions and made comments about sexual activities.
- e. Ms. A and Ms. B say that as they were discharged and leaving the ER, Respondent asked them for their phone numbers and suggested they could go out together some time. They declined to give him their numbers.

6. This incident was reported to BDCH in January 2005 and in February 2005, Respondent was issued a written warning by BDCH for this and unrelated behavior. Respondent's behavior improved following the warning. Respondent voluntarily left employment at BDCH in June 2005.

7. The Division received information alleging Respondent made inappropriate sexual comments to co-workers prior to September 2005, but neither the Board nor the Division has received any additional complaints of Respondent making inappropriate comments to patients, residents or clients.

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's conduct, as set out above, constitutes misconduct or unprofessional conduct as defined by Wis. Adm. Code §§ N 7.04(intro) and subjects him to discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Dean L. Drake, R.N., Respondent, is hereby REPRIMANDED.

2. Respondent's license is LIMITED for two years as follows:

a. Respondent shall provide a copy of this Final Decision and Order immediately to supervisory personnel at all settings where Respondent works as a nurse or caregiver or provides health care, during the two year period.

b. Respondent shall notify the Department Monitor of each employment as a nurse and the name and contact information for his supervisor at each employment, within 10 days of becoming employed as a nurse.

c. Respondent's supervisors shall provide written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. The reports shall indicate whether there have been any allegations that Respondent has made inappropriate sexual comments to or in the presence of a patient, resident or client. If there have been such allegations, the report shall include a description of the circumstances. It shall be Respondent's responsibility to insure that the reports are made in a timely manner.

3. Respondent's license is further LIMITED as follows:

a. Within 120 days of the date of this Order, Respondent shall take and successfully complete "Respecting Professional Boundaries," a continuing education program sponsored by the National Council of State Boards of Nursing, Inc. (3.9 hours of approved continuing education credit).

b. Upon Respondent providing proof sufficient to the Board, or its designee, that he has completed the education, this limitation shall be removed from Respondent's license.

4. 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 \$850.00 pursuant to Wis. Stat. § 440.22(2).

5. Any requests, reports, evidence of completion of educational programs and payment shall be mailed, faxed 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

6. 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 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.

7. 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

DEAN L. DRAKE, R.N.,
RESPONDENT.

:
:
:
:
:
:

STIPULATION

LS _____ NUR

[Division of Enforcement Case # 05 NUR 340]

It is hereby stipulated and agreed, by and between Dean L. Drake, R.N., Respondent; A. Steven Porter, Attorney and Counselor at Law; attorney for Respondent; and John R. Zwieg, 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 05 NUR 340). 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, 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 obtained 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 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 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 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.

Dean L. Drake, R.N.
Respondent
7281 Highway VV
Sun Prairie, WI 53590

Date

A. Steven Porter
Attorney and Counselor at Law
Attorney for Respondent
7818 Big Sky Drive, Suite 112
Madison, WI 53719-4983

Date

John R. Zwiieg
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date

[05 NUR 340: Costs \$850.00]

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