

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
MICHAEL F. McCORMACK, R.N.,	:	LS0802285NUR
RESPONDENT.	:	

[Division of Enforcement Case # 06 NUR 263]

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

Michael F. McCormack, R.N.
221 W. Brentwood Lane
Glendale, WI 53217

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. Michael F. McCormack, R.N., Respondent, date of birth April 30, 1948, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 81621, which was first granted March 26, 1982.
2. Respondent's last address reported to the Department of Regulation and Licensing is 221 W. Brentwood Lane, Glendale, WI 53217.
3. From 1982 to June 19, 2006, Respondent was employed as a registered nurse at Columbia St. Mary's (CSM) in Milwaukee, Wisconsin. From August 1999 until his termination on June 19, 2006, Respondent worked in Interventional Radiology. In that position, Respondent was responsible for monitoring patients in conscious sedation cases.
4. In February 2006, because of concerns about Respondent's lack of appropriate charting regarding controlled substances, Respondent's manager conducted a chart review of patients who were to have been given sedation medication by Respondent. An audit of approximately 60 patients was conducted for the period March, April and May 2006. The audit, which included a review of Respondent's nursing notes, showed:
 - a. On 47 occasions, when Respondent withdrew a quantity of controlled substance from the dispensing system (Pyxis) and administered less than the full amount to the patient, Respondent failed to have a witness observe the wasting of the remaining controlled substance. This was in violation of CSM's policy for controlled

substance distribution and accountability. On two occasions, Respondent followed the policy and had a witness observe and sign for the wasting or returning of surplus medication.

b. On nine of the 47 occasions, Respondent did not record in a record that he had administered to the patient the controlled substances removed from the Pyxis.

5. On June 13, 2006, Respondent was to administer sedating controlled substances and monitor the condition of the patient throughout an MRI.

a. There was no physician's order for sedating medications, but Respondent withdrew and administered to the patient Versed, a Schedule IV controlled substance, and morphine, a Schedule II controlled substance.

b. Respondent left the MRI control room from which he was to monitor the patient and was found by his manager in the Interventional Radiology suite.

c. Respondent did not make any note in any record of the administration of controlled substances to the patient or of the monitoring of the patient.

6. Respondent admitted to:

a. Not having the wasting of controlled substances witnessed and contended he didn't know he needed to do so.

b. Regularly administering sedating controlled substances to patients without having any physician's order for the specific medication or dose and told the Division of Enforcement: "I was told to 'sedate' and it was left to my judgment to determine what medications were needed to obtain the desired effect."

7. There was no suspicion that Respondent was diverting controlled substances for improper purposes.

8. Respondent has not practiced as a nurse since June 2006.

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 administering controlled substances without a physician's order was prohibited by law and is a violation of Wis. Adm. Code § 7.04(2) and subjects him to discipline pursuant to Wis. Stat. § 441.07(1)(d).

3. Respondent's administering controlled substances without a physician's order was beyond the scope of practice permitted by law and in violation of Wis. Adm. Code § 7.04(5) and subjects him to discipline pursuant to Wis. Stat. § 441.07(1)(d).

4. Respondent, by failing to have wasting of controlled substances witnessed, failing to chart wasting, and failing to chart medications given, has engaged in practices which violate the minimum standards of the profession necessary for the protection of the health, safety, or welfare of a patient or the public, which is 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. The license of Michael F. McCormack, R.N., Respondent, to practice professional nursing in the State of Wisconsin is hereby SUSPENDED for three (3) months.

2. Following the end of the suspension, Respondent's license is LIMITED as follows:

a. Respondent shall provide his supervisor, at any place of employment as a registered nurse, with a copy of this Final Decision and Order prior to resuming or commencing that employment.

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 on Respondent's work performance to the Department Monitor on a quarterly basis, as directed by the Department Monitor. It shall be Respondent's responsibility to insure that the reports are made in a timely manner.

d. After two years of quarterly reports, this limitation shall be removed from Respondent's license.

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

a. Within 120 days of the date of this Order, Respondent shall provide proof sufficient to the Board, or its designee, of Respondent's satisfactory completion of fifteen (15) hours of continuing education in the following areas: nine (9) hours in administration and charting of medication and six (6) hours in nursing ethics, which courses shall first be approved by the Board, or its designee.

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 120 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$525.00 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

2/28/08
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
MICHAEL F. McCORMACK, R.N.,	:	LS _____ NUR
RESPONDENT.	:	

[Division of Enforcement Case # 06 NUR 263]

It is hereby stipulated and agreed, by and between Michael F. McCormack, R.N., 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 06 NUR 263). 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 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. Attached to this Stipulation are Respondent's current wall and wallet registration certificates. If the Board accepts the Stipulation, Respondent's license shall be reissued at the time the suspension is terminated in accordance with the terms of the attached Final Decision and Order. If the Board does not accept this Stipulation, Respondent's certificates shall be returned to Respondent with a notice of the Board's decision not to accept the Stipulation.
7. 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 his 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.
8. 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.
9. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

Michael F. McCormack, R.N.
Respondent
221 Brentwood Lane
Glendale, WI 53217

Date

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

Date