

# 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 THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
JONATHAN J. DATTA, L.P.N.,	:	LS0807243NUR
RESPONDENT.	:	

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[Division of Enforcement Case No. 07 NUR 315]

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

Jonathan J. Datta, L.P.N.  
1436 Heights Boulevard  
Winona, MN 55987

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 Wisconsin 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. Jonathan J. Datta, L.P.N., Respondent, date of birth April 8, 1955, is licensed by the Wisconsin Board of Nursing as a licensed practical nurse in the state of Wisconsin pursuant to license number 306632, which was first granted October 19, 2005.

2. Respondent's address of record with the Wisconsin Board of Nursing is 1436 Heights Boulevard, Winona, MN 55987.

3. At all times relevant to this action, Respondent was working as licensed practical nurse at St. Michael's Lutheran Home (St. Michael's) in Fountain City, Wisconsin.

4. Resident A (DOB 8/27/17) lived independently until April 4, 2006, when she fell and suffered a compression fracture of her L3 vertebra. Following a hospital stay, Resident A was admitted to St. Michael's. Resident A had the following interventions in place: personal alarm on at all times; call lights within reach; bed alarm; wheelchair with automatic locking brakes, anti-tip bars; non-skid mat; and transfer pole at the bedside.

5. At approximately 1:15 a.m. on August 24, 2007, Resident A slid off of her bed and onto the floor. Two certified nursing assistants (CNA's) responded to a bed alarm in Resident A's room and found Resident A sitting on the floor

next to her bed. Resident A acknowledged that she slid off the bed. The CNA's called Respondent to the room.

a. Respondent did a visual assessment which showed no signs that Resident A was in any distress. Respondent lifted Resident A back onto the bed. While doing so, Resident A did not complain of pain and did not show any facial signs of any discomfort. Respondent did not ask Resident A at that time if she hurt anywhere, but Resident A later indicated that she had no sore areas and that she felt fine.

b. In violation of facility policy and procedures, Respondent did not do any further assessment or take Resident A's vital signs. Respondent failed to record the fall in Resident A's chart and failed to notify Resident A's physician and family members. Further, Respondent failed to notify the oncoming shift of the incident.

c. Respondent later explained that in his judgment, Resident A's fall was an insignificant event and no further follow-up was needed.

6. On the date of Resident A's fall, Respondent had been working at the facility for only six weeks and was in probationary status. On August 27, 2007, following an investigation of the incident, Respondent's employment was terminated. Respondent is not currently working in the nursing field.

7. Respondent failed to meet the standard of care in the following respects: 1) the injury assessment was incomplete; 2) there was an inadequate assessment of the cause of the fall; 3) the assessment was outside the scope of Respondent's practice and he failed to contact an RN for assistance; 4) Respondent failed to chart the event and include it in the 24-hour report. As a result of Respondent's failure, the treatment team was unaware of the event and unable to identify measures which might have prevented future occurrences.

#### 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), which subjects Respondent to discipline pursuant to Wis. Stat. § 441.07(1)(c).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The SURRENDER by Jonathan J. Datta, L.P.N., Respondent, of his license as a licensed practical nurse in the State of Wisconsin is hereby ACCEPTED.

2. Respondent shall not be permitted to reapply to the Board for any nursing license until he has:

a. provided proof sufficient to the Board, or its designee, of his satisfactory completion of a total of six (6) hours of continuing education on assessment of falls in the elderly, which course(s) shall first be approved by the Board, or its designee.

b. paid to the Department of Regulation and Licensing costs of this proceeding in the amount of \$600.00, pursuant to Wis. Stat. § 440.22(2).

3. Payment, requests, and required proofs shall be 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

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

Wisconsin Board of Nursing

By: Marilyn Kaufmann  
A Member of the Board

7/24/08  
Date

**STATE OF WISCONSIN**  
**BEFORE THE BOARD OF NURSING**

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IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
JONATHAN J. DATTA, L.P.N.,	:	LS _____ NUR
RESPONDENT.	:	

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[Division of Enforcement Case No. 07 NUR 315]

It is hereby stipulated and agreed, by and between Jonathan J. Datta, L.P.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 07 NUR 315). 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 consideration of this attempted resolution.
6. Attached to this Stipulation are Respondent's current wall and wallet registration certificates. 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.

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Jonathan J. Datta, L.P.N.  
Respondent  
1436 Heights Boulevard  
Winona, MN 55987

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Date

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

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Date