

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
KATHLEEN MARY GASZAK, R.N., : LS0910013NUR
RESPONDENT. :

[Division of Enforcement Case # 09 NUR 180]

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

Kathleen Mary Gaszak, R.N.
N107W17060 Redwood Lane
Germantown, WI 53022

Wisconsin Board of Nursing
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
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. Kathleen Mary Gaszak, R.N., Respondent, date of birth July 3, 1959, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 76717, which was first granted August 29, 1980.

2. Respondent's address of record with the Department of Regulation and Licensing is N107W17060 Redwood Lane, Germantown WI 53022.

3. During the events of this matter, Respondent was employed as a registered nurse in the Cancer Center at Froedtert Hospital in Milwaukee, Wisconsin.

4. In June 2009, Froedtert & Community Health (F&CH) Compliance Department monitored access to medical records of a high profile patient. Respondent's name appeared on the audit report as having accessed the record. As a result, a review was conducted of Respondent's Protected Health Information (PHI) activities and access for the previous 12 months. Suspicious access to records was found during the review and specific patterns were detected.

5. Respondent was interviewed on June 5, 2009 to discuss the findings of the review. Due to the volume of records accessed, administrators were unable to discuss and review each and every record. At least 18 records were discussed with Respondent.

6. Respondent acknowledged that she accessed PHI on individuals without their consent because she was overly curious and looked up the information for personal reasons. During the investigation, Respondent also admitted to reviewing the obituaries daily and often times looked up individuals that sounded familiar to see if they were patients.

7. Based on the results of the audit review and Respondent's responses, administrators concluded that at least 18 patient records were accessed by Respondent without a legitimate business purpose. There is no evidence that Respondent re-released confidential information.

8. Respondent's employment was terminated on June 11, 2009 for violation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which is a law substantially related to the practice of nursing.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to Wis. Stat. § 441.07 and authority to enter into this stipulated resolution pursuant to Wis. Stat. § 227.44(5).

2. Respondent's conduct, as set out above, constitutes misconduct or unprofessional conduct as defined by Wis. Admin. Code § N 7.04(1), and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Kathleen Mary Gaszak, 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 four (4) hours of continuing education in the area of legal aspects of patient confidentiality, 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 limitation on Respondent's license shall be removed and full licensure restored.

3. Respondent shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing the costs of this proceeding in the amount of 250.00 pursuant to Wis. Stat. § 440.22(2).

4. Payment 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

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 it is signed.

Wisconsin Board of Nursing

By: Marilyn Kaufmann
A Member of the Board

10/1/09
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
KATHLEEN MARY GASZAK, R.N.,	:	LS _____ NUR
RESPONDENT.	:	

[Division of Enforcement Case # 09 NUR 180]

It is hereby stipulated and agreed, by and between Kathleen Mary Gaszak, 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 09 NUR 180). 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 that the Board adopt this Stipulation and issue the attached Final Decision and Order.

Kathleen Mary Gaszak, R.N.
Respondent
N107W17060 Redwood Lane
Germantown, WI 53022

Date

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

Date