

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
MARGUERITE M. HEMILLER, L.P.N., : LS0910014NUR
RESPONDENT. :

[Division of Enforcement Case # 06 NUR 386]

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

Marguerite M. Hemiller, L.P.N.
315 N. Watertown Street
Johnson Creek, WI 53038

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. Marguerite M. Hemiller, L.P.N., Respondent, date of birth May 6, 1945, is licensed by the Wisconsin Board of Nursing as a licensed practical nurse in the state of Wisconsin pursuant to license number 29418, which was first granted June 23, 1988.

2. Respondent's address of record with the Department of Regulation and Licensing is 315 N. Watertown Street, Johnson Creek, WI 53038.

3. Until her employment was terminated on October 18, 2006, Respondent had been employed as a licensed practical nurse for approximately eighteen years at Marquardt Memorial Manor, Inc. (Marquardt), a nursing home in Watertown, Wisconsin. In the capacity of a team leader, Respondent supervised approximately four Certified Nursing Assistants who provided personal cares to approximately 35 residents in one wing of the residential facility. One of Respondent's primary duties was to dispense medications to the residents in her wing.

4. On three occasions--July 15, 2006, October 3, 2006, and October 18, 2006-- it was discovered that a resident on Respondent's wing had not received morning medications, but that Respondent had documented that she had dispensed the medications.

5. Respondent was counseled by her supervisor regarding her failure. At the direction of her supervisor, Respondent attended a retraining session regarding the proper procedure for passing medications, and participated in in-services during which the procedures were again reviewed.

6. On October 18, 2006, Respondent's employment was terminated as a result of her repeated failure to dispense

medications as expected. Respondent acknowledged that the errors had occurred but did not have an explanation for falsely documenting that medications had been dispensed.

7. On October 19, 2006, the daughter of Resident RA reported that Respondent had retained a box of her mother's "lifetime collection" of knitting/crocheting patterns and her mother was having difficulty getting them back. Respondent told the Division of Enforcement that the patterns were not a gift, but the resident repeatedly offered them to Respondent to make copies. Respondent said she initially declined the resident's offer, but eventually took them home and forgot about them. Respondent eventually came across the box and returned it to the resident's daughter.

8. Marquardt's policy prohibits employees from accepting any type of personal gratuity such as money, gifts or jewelry from residents, patients or their family. The purpose of the policy is not only for the protection of the residents, but also protects employees from receiving gifts that family may not perceive as being a gift. Any employee found guilty of soliciting or accepting a personal gratuity was subject to discharge. Respondent was aware of the policy.

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, by engaging in the conduct set out in paragraphs 4-6, above, falsified patient records, which is misconduct or unprofessional conduct as defined by Wis. Admin. Code § N 7.04(6), and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

3. Respondent, by engaging in the conduct set out in paragraphs 4-6, above, failed to execute medical orders without justification, which is neglect, as defined by Wis. Admin. Code § N 7.03(1)(d), and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Marguerite M. Hemiller, L.P.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 six (6) hours of continuing education in the following areas: three (3) hours in nursing ethics and three (3) hours in medication administration, 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, for a period of two years following the issuance of this Order, provide a copy of this Final Decision and Order immediately to Respondent's supervisor at all settings where Respondent works as a nurse or care giver or provides health care.

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 \$796.00 pursuant to Wis. Stat. § 440.22(2).

5. 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

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 Respondent fails to timely 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

10/1/09
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : STIPULATION
MARGUERITE M. HEMILLER, L.P.N., : LS _____ NUR
RESPONDENT. :

[Division of Enforcement Case # 06 NUR 386]

It is hereby stipulated and agreed, by and between Marguerite M. Hemiller, 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 06 NUR 386). 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. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order would constitute an agency finding within the meaning of Wis. Stats. §§ 48.685 and 50.065. Should Respondent wish to work in a Wisconsin Department of Health Services licensed facility, she will need to pass a Rehabilitation Review through DHS prior to commencement of such employment.

9. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

Marguerite M. Hemiller, L.P.N.
Respondent
315 N. Watertown Street
Johnson Creek, WI 53038

Date

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

Date