

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

ROBERT A. DEVINE, L.P.N.
RESPONDENT.

LS09120314NUR

Division of Enforcement Case #06 NUR 385

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

Robert A. Devine, L.P.N.
875 Bon St.
Cecil, WI 54111

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. 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. Robert A. Devine (D.O.B. 6/12/56) is duly licensed in the state of Wisconsin as a practical nurse (license #302804). This license was first granted on 9/12/2000.

2. On 9/8/06, Respondent was on duty at the Evergreen Care Center, Shawano, Wisconsin. During his shift, a 71 year old male resident with neuropathy, multiple myeloma, degenerative joint disease, and myasthenia gravis, was found on the floor of his room at approximately 0200; the resident had fallen at 1800 the previous day, when Respondent was not on duty.

3. Respondent's entries in the electronic recordkeeping system were to the effect that he assessed the resident some 50 minutes after the resident was discovered, and assessed him again several minutes later. The entries state that the resident had normal vitals, no restrictions in movement of any extremities, no pain, no apparent injury, light-reactive pupils, and equal hand grasps. Respondent did not then notify the charge nurse (who was off-site), the physician, or the resident's family; he did include a description of the incident in his shift report to the day nurse to the effect that the resident had "slid to the floor"; there was no mention of any apparent pain or injury.

4. Respondent instructed the nursing assistants to place the resident in his chair, using a Hoyer lift, before he assessed the resident. At least one of the assistants pointed out to Respondent that the resident appeared to be in pain, and to be holding his left arm.

5. In a report completed 19 days later, Respondent stated that the resident did complain of left arm pain, and that

he had assessed the resident before instructing the nursing assistant to place the resident in his bed.

6. In fact, the resident had a fractured humerus in his left arm.

CONCLUSION OF LAW

By the conduct described above, respondent is subject to disciplinary action against her license to practice as a registered nurse in the state of Wisconsin, pursuant to Wis. Stat. § 441.07(1)(b), and Wis. Adm. Code §§ N 7.03(1)(c) and N 7.04(15).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that :

1. Robert A. Devine, L.P.N., is REPRIMANDED for his unprofessional conduct in this matter.
2. The license of Robert A. Devine, L.P.N., to practice as a nurse in the state of Wisconsin is LIMITED as follows:
 - a. No later than 5/30/10, Respondent shall demonstrate satisfactory completion of the following continuing education, which shall have been pre-approved by the Board or its designee: 5 hours in ethics of nursing practice, 4 hours in dealing with falls, and 4 hours in patient assessment.
 - b. The National Council of State Boards of Nursing's Learning Extension 4.8 hour on-line course in *Ethics of Nursing Practice* is approved as meeting the ethics course requirement; Respondent may propose other courses which are substantially equivalent.
 - c. Respondent shall provide his nursing employers with a copy of this Order before engaging in any nursing employment.
3. 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 demonstrate timely compliance with the ordered continuing education, the Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

IT IS FURTHER ORDERED that respondent shall pay the costs of investigating and prosecuting this matter, in the amount of \$600, no later than 4/5/11. If not paid, Respondent's license shall be SUSPENDED without further notice or hearing, until they are paid in full, together with any accrued interest.

WISCONSIN BOARD OF NURSING

By: Marilyn Kaufmann
A Member of the Board

12/3/09
Date