

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
	:	
NICOLE E. KUTNER, R.N.,	:	ORDER 0000232
RESPONDENT.	:	

Division of Enforcement Case No. 08 NUR 219

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

Nicole E. Kutner, R.N.
301 W. Martin Lane
Milwaukee, WI 53207

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Board of Nursing
Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The Notice of Hearing and Complaint were filed in this matter on March 22, 2010. Prior to the hearing on the formal complaint, the parties in this matter agreed 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. Nicole E. Kutner, R.N., (DOB 07/25/1978) is duly licensed as a registered nurse in the State of Wisconsin (license No. 141810-30). This license was first granted on July 31, 2002.

2. Respondent's address on record with the Wisconsin Board of Nursing is 301 W. Martin Lane, Milwaukee, Wisconsin 53207.
3. At all times relevant to this action, Respondent was working as a registered nurse at Brookfield Rehabilitation & Specialty Care in Brookfield, Wisconsin.
4. On November 16, 2006, pursuant to stipulation, the Board suspended Respondent's license to practice indefinitely. Respondent had diverted controlled substances for her own use. Respondent satisfied the Order and the Board granted full licensure on January 29, 2009.
5. On June 27, 2008, Respondent's care of a patient was negligent when, in the course of a blood transfusion, she administered blood intended for another patient. The blood was properly labeled. The blood type was not that of the patient for whom it was administered. Respondent reacted immediately upon discovering the error, admitted her behavior and discontinued the transfusion within 30 minutes.
6. Administration of an incompatible blood type can be fatal. The skill and care of a competent registered nurse required Respondent to verify that the blood administered was the blood intended for the patient who received it.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction to act in this matter, pursuant to Wis. Stat. § 441.07, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).
2. Respondent, by engaging in the conduct described above, has violated the standards of practice for the nursing, in violation of Wis. Admin. Code § N 6.05, which is negligence, as defined by Wis. Admin. Code § N 7.03(1)(a). Respondent is therefore subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

IT IS HEREBY ORDERED that the stipulation of the parties is approved.

IT IS FURTHER ORDERED that Nicole E. Kutner, R.N. is hereby REPRIMANDED

IT IS FURTHER ORDERED that Nicole E. Kutner, R.N. is LIMITED as follows:

1. Within 6 months of the date of this Final Decision and Order, Respondent shall take 6 hours of continuing education in preventing medical errors, or its equivalent. Any course must be pre-approved by the Board of Nursing or its designee. Respondent will be responsible for locating a course satisfactory to the Board of Nursing and for obtaining the required approval of the course from the Board of Nursing or its designee. Respondent will within 60 days of

completion of this education requirement, file an affidavit with the Board of Nursing stating under oath that she has completed the course approved for satisfaction of this requirement. This affidavit will be filed with:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, Wisconsin 53708-8935

All certifications, affidavits or other documents required to be filed with the Board of Nursing will be deemed filed upon receipt by the Department Monitor.

2. Respondent will be responsible for paying the full cost of the required education. Respondent will not apply any of the continuing education credits earned in satisfaction of this Order toward satisfaction of training requirements.

IT IS FURTHER ORDERED that:

3. For an indefinite period of not less than 2 years, Respondent shall arrange for written reports from supervisors to be provided to the Department Monitor. The work reports shall be submitted on a monthly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance, and shall include the number of hours of active nursing practice worked during that month.

4. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

5. Pursuant to Uniform Nursing Licensure Compact Regulation No. 3, Respondent's nursing practice is limited to Wisconsin during the pendency of this Order and any subsequent related orders. This requirement may be waived only upon the prior written authorization of both the Wisconsin Board of Nursing and of the regulatory board in the state in which Respondent proposes to practice.

6. After 6 months, Respondent may petition the Board for modifications to these limitations. The Board may require a personal appearance by Respondent, in its discretion. The Board may grant or deny Respondent's petition in its discretion. If Respondent is dissatisfied with the Board's decision she may seek a class 1 hearing pursuant to Wis. Stat. § 227.01(3)(a), in which the burden shall be on Respondent to show that the Board's decision is arbitrary or capricious. Requesting a hearing does not stay the Board's decision on the petition during the pendency of the hearing process.

IT IS FURTHER ORDERED that:

7. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of ONE HUNDRED FIFTY (\$150). Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935
Tel. (608) 267-3817
Fax (608) 266-226

8. In the event Respondent fails to comply with the continued education or fails to timely pay costs as ordered or fails to comply with the ordered work reports, Respondent's license (No. 141810-30) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order. The Board or its designee will remove the suspension, if provided with sufficient information that Respondent is in compliance with the Order and that it is inappropriate for the suspension to remain in effect. The Board in its discretion may impose additional conditions and limitations for a violation of any of the terms of this Order.

This Order is effective on the date of its signing.

BOARD OF NURSING

By: Marilyn Kaufmann
Member of the Board

6/3/10
Date