

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

NATHAN K. POWELL, L.P.N.,
RESPONDENT.

:
:
:
:
:
:

FINAL DECISION AND ORDER

Order 0000299

[Division of Enforcement Case # 09 NUR 218]

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

Nathan K. Powell, L.P.N.
1077 Hillside Road
Edgerton, WI 53534-9355

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 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 the attached Stipulation and considers it acceptable.

Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Nathan K. Powell, L.P.N., Respondent, date of birth May 24, 1962, is licensed by the Wisconsin Board of Nursing as a licensed practical nurse in the state of Wisconsin pursuant to license number 31882, which was first granted May 21, 1993.
2. Respondent's last address reported to the Department of Regulation and Licensing is 1077 Hillside Road, Edgerton, WI 53534-9355.
3. From August 2006 until his employment was terminated on July 14, 2009, Respondent was employed as a licensed practical nurse at Covance Clinical Research Unit, Inc., in Madison, Wisconsin. As part of his duties, Respondent conducted screening appointments for research participants which included taking medical histories.

4. As identified in the “Covance Employee/Research Participant Conduct Expectations,” of which Respondent was aware, Covance employees are expected to maintain a professional business relationship and appropriate behavior at all times when interacting with research participants. Examples of inappropriate behavior include, but are not limited to, the following:

- a. Initiating social contact
- b. Inappropriate language, jokes, etc.
- c. Flirtatious types of conversation or behavior
- d. Romantic or social involvement with participants
- e. Accepting or purchasing gifts/items from participants
- f. Giving gifts/items to participants
- g. Sharing of personal or work contact information (phone numbers, email addresses, etc.)

5. In November 2008, Participant A complained that during his screening appointment, Respondent inappropriately held his hand and hugged him, which made Participant A uncomfortable. Respondent was counseled about this and was told that he was not to be involved in any more touching of participants.

6. From July 12-14, 2009, Covance supervisors received complaints from three additional male participants alleging inappropriate conduct by Respondent. The participants were each involved in different studies and did not know each other.

a. Participant B alleged that during the medical history portion of his recent screening appointment, Respondent touched him on his arms, abdomen and genitals. Participant B stated that Respondent grabbed his penis and scrotum and moved them around as if examining them. Participant B was uncomfortable because Respondent was not wearing gloves and he was not expecting a physical exam.

b. Participant C alleged that during the medical history portion of his recent screening appointment, Respondent grabbed Participant C’s hand and placed it on Participant C’s thigh, where Respondent massaged both Participant C’s hand and thigh. Participant C also reported that, during a previous screening for a different study, Respondent had Participant C take off his shirt, after which Respondent “eyeballed” him up and down and told him he was a “good-looking guy.” Participant C further reported that after previous screening sessions, Respondent would ask for hugs, during which Respondent would rub Participant C’s back and hold him tight for quite a long time.

c. Participant D alleged that during the medical history portion of his recent screening appointment, Respondent asked Participant D if he had any scars, to which Participant D replied that he had a scar on his arm. Without asking or explaining what he was looking for, Respondent proceeded to open Participant B’s shorts and looked at his penis. This made Participant D uncomfortable because he did not feel it was appropriate for Respondent to do so.

7. Viewing and/or touching of genitalia was not required from any nursing staff during these reported instances. Due to the serious nature of these allegations and the

escalation of complaints, Respondent's employment was immediately terminated on July 14, 2009.

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 as set out above, has committed misconduct or unprofessional conduct as defined by Wis. Admin. Code § N 7.04(11) and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

IT IS ORDERED:

1. The license of Nathan K. Powell, L.P.N., Respondent, to practice as a nurse in the State of Wisconsin, and his privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, shall be **SUSPENDED** for an indefinite period to be no less than one (1) year.

2. Respondent may petition the Board of Nursing for the termination of the suspension, after one (1) year, under the following terms and conditions:

a. Respondent shall provide evidence to the Board of having completed, at his own expense, six (6) hours of pre-approved continuing education in the area of boundaries in the nurse/client relationship. Respondent is responsible for finding appropriate course(s) and submitting the course information to the Board for approval prior to taking the course(s).

b. Respondent shall have, at Respondent's own expense, undergone an assessment by a mental health care provider experienced in assessing healthcare practitioners who have had boundary violations. The practitioner performing the assessment (assessor) must not have treated Respondent and shall have been approved by the Board, with an opportunity for the Division of Enforcement to provide file materials to the assessor and to make its recommendation, prior to the evaluation being performed. Respondent will sign valid releases allowing communication and sharing of documents between the Board and the assessor.

c. The assessor must be of the opinion that Respondent is able to practice with reasonable skill and safety of clients and public and does not suffer from any condition which prevents him from practicing in that manner.

3. If the Board determines to end the suspension, Respondent's license to practice nursing in the State of Wisconsin, and his privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, is **LIMITED** for a period of at least two (2) years from the date the suspension is ended, as follows:

a. Respondent shall provide his supervisor, at any place of employment as a nurse, with a copy of this Final Decision and Order prior to resuming or commencing that employment.

b. Respondent shall practice only in a work setting pre-approved by the Board or its designee. Respondent may not work in a home health care, hospice, pool nursing or agency setting.

c. Respondent shall practice only under the direct supervision of a licensed nurse or other licensed health care professional approved by the Board or its designee.

d. Respondent's supervisor(s) shall provide written reports on Respondent's work performance to the Department Monitor on a quarterly basis, as directed by the Department Monitor. It shall be Respondent's responsibility to ensure that the reports are made in a timely manner.

e. At all times that Respondent's practice involves direct patient/client contact, there shall be one or more other clinic personnel physically present in the room with Respondent and the patient/client.

f. Respondent shall notify the Department Monitor of each employment as a nurse and the name and contact information for his supervisor at each employment, within 15 days of becoming employed as a nurse.

g. During the pendency of this Order and any subsequent related Orders, Respondent may not practice in another state pursuant to the Nurse Licensure Compact under the authority of a Wisconsin license, unless Respondent receives prior written authorization to do so from both the Wisconsin Board of Nursing and the regulatory board in the other state.

4. If Respondent believes that the Board's refusal to end the suspension is inappropriate or that any limitation imposed or maintained by the Board under paragraph 3, above, is inappropriate, Respondent 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. The suspension or limitations on Respondent's license shall remain in effect until there is a final decision in Respondent's favor on the issue.

5. 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 \$900.00, pursuant to Wis. Stat. § 440.22(2).

6. All requests, petitions, notifications and payment required by this Order shall be mailed, faxed 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

7. 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 that Respondent fails to timely submit payment of the costs as ordered, Respondent's license may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

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

Wisconsin Board of Nursing

By: 
A Member of the Board

7/22/10
Date

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