

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

JAMES M. WHELAN, L.P.N., :
RESPONDENT. :

Order 0000382

Division of Enforcement Case #10 NUR 209

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

James M. Whelan
P.O. Box 212
Gilman, WI 54433

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. James M. Whelan (D.O.B. 1/1/1950) is duly licensed in the state of Wisconsin as a practical nurse (license # 310176). This license was first granted on 7/2/2008.
2. Respondent, in his capacity as Gilman Industrial Foundation treasurer, between 11/25/1998 and 7/26/2007, converted approximately \$83,000 from the Gilman Industrial Foundation.
3. Respondent pled guilty and was convicted in Circuit Court of Taylor County, Wisconsin on 5/4/2010 of violating Wis. Stat. § 943.20(1)(a) in connection with the actions described in paragraph two (2) above.

CONCLUSION OF LAW

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

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license of James M. Whelan to practice as a nurse in the state of Wisconsin is LIMITED as follows:
 - a. Respondent shall not work in any setting where his duties include the handling of money or negotiable instruments which are the property of any other person or entity.
 - b. Respondent may prepare or file claims to third party payers on behalf of patients and his employer which will result in payments directly to patients or his employer; he shall not prepare or file any such claim which would result in any payment directly to him. Respondent may file personal claims for care provided to him by another provider.
 - c. Respondent shall not accept or receive, directly or indirectly, any gratuity, loan, or other benefit from any patient, other than his normal compensation, nor shall he enter into any investment, financial venture, or other business with any patient.
 - d. Respondent shall provide his nursing employers with a copy of this Order before engaging or continuing in any nursing employment.
2. 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.

IT IS FURTHER ORDERED that respondent shall pay the costs of investigating and prosecuting this matter, in the amount of \$150, within 30 days of this Order. If not paid, Respondent's license may, in the discretion of the Board or its designee, be SUSPENDED without further notice or hearing, until they are paid in full, together with any accrued interest.

WISCONSIN BOARD OF NURSING

By: *James M. Whelan*
A Member of the Board

9-2-10
Date

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