

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

TAMMY S. FLEMING-MARKART, L.P.N.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
: **ORDER 0002302**

Division of Legal Services and Compliance¹ Case No. 12 NUR 080

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

Tammy S. Fleming-Markart, L.P.N.
S12985 Shifflet Rd., Trlr. 305
Spring Green, WI 53588

Wisconsin Board of Nursing
P.O. Box 8935
Madison, WI 53708-8935

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Board of Nursing (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Tammy S. Fleming-Markart (dob November 29, 1967) is licensed in the State of Wisconsin as a Licensed Practical Nurse, having license number 31-308254, first issued on March 28, 2007 and current through April 30, 2013. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is S12985 Shifflet Road, Trailer 305, Spring Green, Wisconsin 53588.

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

2. At all times relevant to this matter, Respondent was employed as a practical nurse home health care worker at Homeward Bound, Inc., in Baraboo, Wisconsin.

3. In January 2012, Respondent used approximately \$40.00 of an in-home client's money to purchase items for Respondent's personal use.

4. Respondent admits she routinely accepted money from the client for personal use, not for services rendered and estimated the amount of money received as \$270.00.

5. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

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 pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent engaged in misconduct or unprofessional conduct as defined by Wis. Admin. Code § N 7.04(13) by obtaining compensation by undue influence in the course of nursing practice.

3. As a result of the misconduct, Respondent is subject to discipline pursuant to Wis. Stat. §§ 441.07(1)(b) and (d).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Tammy S. Fleming-Markart, L.P.N., is REPRIMANDED.

3. The Licensed Practical Nurse license issued to Tammy S. Fleming-Markart (license no. 31-308254) is LIMITED as follows:

a. Within 90 days of the date of this Order, Respondent shall successfully complete 4 hours of education on the topic of ethics and boundaries offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the course(s).

b. Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.

- c. This limitation shall be removed from Respondent's license after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.
4. The Licensed Practical Nurse license issued to Tammy S. Fleming-Markart (license no. 31-308254) is further LIMITED as follows:
 - a. Respondent shall provide her nursing employer(s) with a copy of this Order before engaging in any nursing employment.
 - b. For a period of at least 1 year while working at least half-time as a nurse, Respondent shall work only under direct supervision, and only in a work setting pre-approved by the Board.
 - c. Respondent may not work in a home health care, hospice, pool nursing, assisted living, or agency setting.
 - c. For a period of at least 1 year while working at least half-time as a nurse, Respondent shall arrange for quarterly reports from her nursing employer(s) reporting the terms and conditions of her employment and evaluating her work performance.
 - d. Pursuant to Uniform Nurse Licensure Compact regulations, Respondent's nursing practice is limited to Wisconsin during the pendency of this limitation. This requirement may be waived only upon the prior written authorization of both the Wisconsin Board of Nursing and the regulatory board in the state in which Respondent proposes to practice.
 - e. Respondent shall notify the Department Monitor of any change of nursing employment during the time in which the Order is in effect. Notification shall occur within fifteen (15) days of a change of employment and shall include an explanation of the reasons for the change.
 - f. After 1 year of working at least half-time as a nurse, Respondent may petition the board for modification or termination of the limitation. The Board may grant or deny the petition, in its discretion, or may modify this Order as it sees fit.
5. Within 6 months from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$500.00.
6. All requests, petitions, proof of successful course completion, work reports, and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services

P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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 Respondent fails to timely submit payment of the costs as ordered, fails to submit proof of successful completion of the ordered education, or fails to submit quarterly work reports as set forth above, Respondent's license (no. 31-308254) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has submitted costs, proof of completion of education and quarterly work reports.

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

WISCONSIN BOARD OF NURSING

by:

Julie Nelson, RN
A Member of the Board

2/14/13
Date