

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

MICHELLE A. SOMERS, L.P.N.,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0002762

Division of Legal Services and Compliance¹ Case No. 13 NUR 371

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

Michelle A. Somers, L.P.N.
2917 Winsor Drive, Apt. 209
Eau Claire, WI 54703

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 Michelle A. Somers, L.P.N., (dob May 1, 1983) is licensed in the State of Wisconsin as a practical nurse, having license number 308788-31, first issued on July 3, 2007 and current through April 30, 2015. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2917 Winsor Drive, Apt. 209, Eau Claire, Wisconsin 54703.

2. At all times relevant to this proceeding, Respondent was employed as a practical nurse at a nursing home and rehabilitation facility (Facility), located in Eau Claire, Wisconsin.

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

3. Patient A was admitted to Facility with dementia.
4. On or about July 1, 2013, Patient A attempted to self-transfer from his bed to a standing position. Patient A fell and Respondent responded to Patient A's call for help.
5. Respondent found Patient A on the floor near his bed and activated the emergency alarm. Additional staff responded to the emergency alarm to assist cleaning Patient A and transferring him back into his bed.
6. Patient A's toe was bleeding and Respondent applied pressure to the area.
7. Patient A yelled at staff while Respondent was applying pressure to Patient A's bleeding toe, staff was cleaning Patient A and while staff was transferring Patient A back to bed.
8. Respondent told Patient A to shut up and that he wouldn't be in this predicament if he hadn't attempted to stand on his own.
9. During Facility investigation, Respondent admitted that she inappropriately told Patient A to shut up and that he would not be in this predicament if he had not attempted to stand on his own.
10. 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, Michelle A. Somers, L.P.N., engaged in unprofessional conduct as defined in Wis. Admin. Code § N 7.04(4) by abusing a patient by any single or repeated act of force, violence, harassment, deprivation, neglect, or mental pressure which reasonably could cause physical pain or injury, or mental anguish or fear.
3. As a result of the above conduct, Michelle A. Somers, L.P.N., is subject to discipline pursuant to Wis. Stat. § 441.07(1)(b) and (d).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Michelle A. Somers, L.P.N., is REPRIMANDED.
3. The practical nursing license issued to Respondent Michelle A. Somers, L.P.N., (license number 308788-31) and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, are LIMITED as follows:

- a. Within 90 days of the date of this Order, Respondent, at her own expense, shall complete four (4) hours of education on the topic of ethics and professional conduct and four (4) hours of education on the topic of elder abuse/neglect. Respondent is responsible for finding an appropriate course and submitting the course information to the Board for approval prior to taking the course and in sufficient time to obtain Board approval within the 90-day time frame, taking into account the Board's meeting schedule. Respondent shall provide proof of completion of the education to the Department Monitor.

4. The practical nursing license issued to Respondent Michelle A. Somers, L.P.N., (license number 308788-31) and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, are further LIMITED, for a period of at least one (1) year, as follows:

- a. Respondent shall provide her nursing employers with a copy of this Order before engaging in any nursing employment.
- b. 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. Respondent shall not work in a home health, assisted living, agency or pool position.
- c. While working at least half-time as a nurse, Respondent shall arrange for her nursing employer(s) to send to the Department Monitor quarterly reports, 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 one (1) year of working at least half-time as a nurse, Respondent may petition the board for the 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 120 days from the date of this Order, Michelle A. Somers, L.P.N., shall pay COSTS of this matter in the amount of \$200.00.

6. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent 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 as set forth above, or otherwise fails to comply with any terms of the order as outlined above, Respondent's license (no. 308788-31) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of costs, submit proof of completion of the education and complies with all other terms of the order as outlined above.

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

WISCONSIN BOARD OF NURSING

by:

Julia Nelson, RN
A Member of the Board

Date

11/14/2013

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MICHELLE A. SOMERS, L.P.N.,
RESPONDENT.

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STIPULATION

ORDER 000276²

Division of Legal Services and Compliance¹ Case No. 13 NUR 371

Respondent Michelle A. Somers, L.P.N., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:
 - the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
 - the right to confront and cross-examine the witnesses against Respondent;
 - the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
 - the right to testify on Respondent's own behalf;
 - the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
 - the right to petition for rehearing; and
 - all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Board of Nursing (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

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

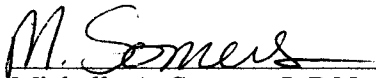
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.


7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order would constitute an agency finding within the meaning of Wis. Stat. §§ 48.685 and 50.065. Should Respondent wish to work in a Wisconsin DHS-licensed facility in any role, Respondent will need to pass a Rehabilitation Review through DHS prior to commencement of such employment.

9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Michelle A. Somers, L.P.N., Respondent
2917 Winsor Drive, Apt. 209
Eau Claire, WI 54703
License no. 308788-31

10/28/13
Date


Amanda L. Florek, Attorney
Division of Legal Services and Compliance
P.O. Box 8935
Madison, WI 53708-8935

10/31/13
Date