

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF :
DIANE M. SCHIAVO, L.P.N. : FINAL DECISION AND ORDER
: FOR REMEDIAL EDUCATION
: **ORDER 0002763**

Division of Legal Services and Compliance¹ Case No. 13 NUR 330

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

Diane M. Schiavo, L.P.N.
205 Minor Court
Green Bay, WI 54303

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. Licensee Diane M. Schiavo, L.P.N., (dob December 13, 1956) is licensed in the State of Wisconsin as a practical nurse, having license number 26351-31, first issued on June 3, 1983 and current through April 30, 2015. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 205 Minor Court, Green Bay, Wisconsin 54303.

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

2. At all times relevant to this proceeding, Licensee was employed as a practical nurse through an agency at an assisted living facility, located in DePere, Wisconsin.

3. On March 9, 2013, Licensee attempted to independently transfer Resident A to the bathroom. Resident A had a history of falls and her Functioning and Care Plan at that time provided that two people were to assist with all transfers of this resident. The transfer resulted in a fall, causing injury to the resident's right hand, arm, nose, cheek and jaw. By attempting to independently transfer Resident A, Licensee failed to follow the care plan.

4. 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 is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

ORDER

1. The attached Stipulation is accepted.

2. Within 6 months of the date of this Order, Diane M. Schiavo, L.P.N., shall at Licensee's own expense take and successfully complete two (2) hours of education in following resident's plan of care and two (2) hours of education in resident safety in lifts and transfers as follows:

- a. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee. Licensee shall be responsible for locating course(s) satisfactory to the Board and for obtaining the required approval of the courses from the Board or its designee. Licensee must take and pass any exam offered for the course(s).
- b. Licensee 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 education requirements that have been or may be instituted by the Board or Department.

3. Within 120 days from the date of this Order, Licensee shall pay COSTS of this matter in the amount of \$ 170.00.

4. Request of approval of courses, proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Licensee 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

5. 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 Licensee's license. The Board in its discretion may in the alternative impose additional conditions and limitations for a violation of any of the terms of this Order. In the event Licensee fails to timely submit payment of the costs as ordered or fails to submit proof of successful completion of the ordered education as set forth above, Licensee's license (no. 26351-31) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Licensee has complied with payment of the costs and completion of the education.

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

WISCONSIN BOARD OF NURSING

by: Julia Nelson, RN
A Member of the Board

11/14/2013
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF	:	
	:	STIPULATION
DIANE M. SCHIAVO, L.P.N.	:	ORDER 0002763

Division of Legal Services and Compliance¹ Case No. 13 NUR 330

Respondent Diane M. Schiavo, 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 for Remedial Education 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. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Diane M. Schiavo, L.P.N., Respondent
205 Minor Court
Green Bay, WI 54303
License no. 26351-31

10-15-13

Date



Kim Kluek, Attorney
Division of Legal Services and Compliance
P.O. Box 8935
Madison, WI 53708-8935

11/4/13

Date