

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

BETH A. HERBST, R.N.,
RESPONDENT.

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FINAL DECISION AND ORDER

0002874

Division of Legal Services and Compliance¹ Case No. 13 NUR 342

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

Beth A. Herbst
N2471 Clearview Drive
Monroe, WI 53566

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 Beth A. Herbst, R.N., (dob August 12, 1953) is licensed in the State of Wisconsin as a professional nurse, having license number 145185-30, first issued on June 26, 2003 and current through February 28, 2014. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is N2471 Clearview Drive, Monroe, WI 53566.

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

2. At all times relevant to this proceeding, Respondent was employed as a professional nurse at a skilled nursing facility (Facility), located in Monroe, Wisconsin.

3. On June 1, 2013, Resident A underwent a dialysis treatment at a health clinic (Clinic). Following that treatment, her blood pressure was 91/33 and her rate was 96 and irregular. Resident A was transported back to Facility that same date.

4. At 1315, Resident A's blood pressure was 92/48 and her heart rate was 150.

5. On June 2, 2013, at approximately 0115, Respondent reviewed Patient A's vital sign previously taken by the assigned CNA which indicated a blood pressure of 71/37. Instead of rechecking the blood pressure herself and performing an immediate assessment of the resident, Respondent requested that another CNA recheck Resident A's blood pressure. The second CNA was unable to obtain a blood pressure with the mechanical BP machine and noted that Resident A appeared confused, but talkative during the attempt to obtain a blood pressure. The second CNA advised Respondent that she was unable to obtain a blood pressure at which time Respondent contacted the physician. The physician ordered that Resident A be transported to the emergency room.

6. 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 violated Wis. Admin. Code. § N 7.03(1)(b) by failing to recheck the resident's blood pressure herself and failing to perform an immediate assessment of the resident.

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

ORDER

1. The attached Stipulation is accepted.

2. Respondent Beth A. Herbst, R.N., is REPRIMANDED.

3. The professional nursing license issued to Beth A. Herbst, R.N., (license number 145185-30) 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 shall at her own expense, successfully complete six (6) hours of education on the topic of physical assessment and delegation/supervision offered by a provider pre-approved by the

Board's monitoring liaison, including taking and passing any exam offered for the courses.

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. Within 120 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$200.00.

5. Request of approval of courses, proof of successful course completion and payment of forfeiture and 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

6. 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 or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 145185-30) 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 and submit proof of completion of the education.

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

WISCONSIN BOARD OF NURSING

by:

Julie Nelson, RN
A Member of the Board

12/19/13
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

BETH A. HERBST, R.N.,
RESPONDENT.

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STIPULATION

0002874

Division of Legal Services and Compliance¹ Case No. 13 NUR 342

Respondent Beth A. Herbst, R.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.

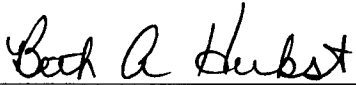
¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

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.

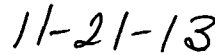
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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.

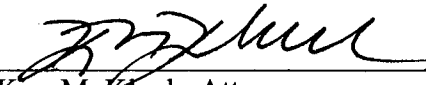
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



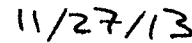
Beth A. Herbst, Respondent
N2471 Clearview Drive
Monroe, WI 53566
License no. 145185-30



Date



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



Date