

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

DAVID P. GAY, R.N.,
LICENSEE.

:
: FINAL DECISION AND ORDER
: FOR REMEDIAL EDUCATION
:

0005119

Division of Legal Services and Compliance Case No. 15 NUR 096

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

David P. Gay, R.N.
1903 Sunkist Avenue
Waukesha, WI 53188

Wisconsin Board of Nursing
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

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 David P. Gay, R.N., (dob December 29, 1959) is licensed in the State of Wisconsin as a professional nurse, having license number 105012-30, first issued on September 9, 1990 and current through February 28, 2018. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1903 Sunkist Avenue, Waukesha, Wisconsin 53188.

2. At all times relevant to this proceeding, Licensee was employed as a professional nurse at a hospital (Hospital), located in Milwaukee, Wisconsin.

3. On February 4, 2015, Licensee was working in the Hospital emergency department. On that date, Patient A was experiencing urinary bladder retention.

4. Licensee was unable to insert the Foley® catheter on the first attempt so he used a nasal speculum to retract the patient's foreskin to insert the catheter through the urethra.

5. On January 5, 2017, Licensee completed continuing education on the topics of sharpening critical thinking skills and ethics and professionalism in nursing.

6. In resolution of this matter, Licensee 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. The Board recognizes the aforementioned continuing education courses as the equivalent of the education the Board would have otherwise required.

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

WISCONSIN BOARD OF NURSING

by: Paul Krane
A Member of the Board

1-12-17
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF	:	
	:	STIPULATION
DAVID P. GAY, R.N.,	:	
LICENSEE.	:	0005119

Division of Legal Services and Compliance Case No. 15 NUR 096

Licensee David P. Gay, 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. Licensee consents to the resolution of this investigation by Stipulation.

2. Licensee understands that by signing this Stipulation, Licensee voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Licensee, 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 Licensee;
- the right to call witnesses on Licensee's behalf and to compel their attendance by subpoena;
- the right to testify on Licensee'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 Licensee under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Licensee is aware of Licensee's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Licensee is represented by attorney Maria K. Schneider.

4. Licensee 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. Licensee waives all rights to any appeal of the Board's order, if adopted in the form as attached.

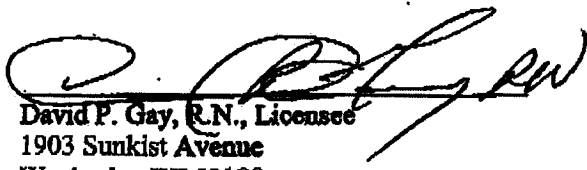
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be

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 Licensee, 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. Licensee 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 Licensee in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



David P. Gay, R.N., Licensee
1903 Sunkist Avenue
Waukesha, WI 53188
License No. 105012-30

12/26/2016
Date



Maria K. Schneider, Attorney for Licensee
Gutglass, Erickson, Bonville & Larson, S.C.
733 N. Water Street, Suite 1400
Milwaukee, WI 53202

1-3-17
Date



Kim M. Kluck, Attorney
Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 7190
Madison WI 53707-7190

1/3/17
Date