

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

MELANIE S. WAGNER, L.P.N.,
RESPONDENT.

:
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: FINAL DECISION AND ORDER
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:
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0005627

Division of Legal Services and Compliance Case No. 16 NUR 668

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

Melanie S. Wagner, L.P.N.
507 East Broadway
Medford, WI 54451

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. Respondent Melanie S. Wagner, L.P.N., (dob September 4, 1966) is licensed in the State of Wisconsin as a practical nurse, having license number 315408-31, first issued on April 18, 2012, and current through April 30, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 507 East Broadway, Medford, Wisconsin 54451.

2. At all times relevant to this proceeding, Respondent was employed as a practical nurse at health care facility (Facility) located in Abbotsford, Wisconsin.

3. On September 19, 2016, Resident A, a 77-year old female, was admitted to the Facility with a diagnosis of failure to thrive, dementia with behavioral issues and malnutrition. Resident A's plan was to move to a facility closer to home when a placement became available.

4. On September 24, 2016, the Facility's certified nursing assistant (CNA) witnessed Resident A fall. The CNA saw Resident A fall on her bottom and hit the back of her head on the dresser. The CNA with the help of another CNA assisted Resident A to bed using a lift.

5. The CNA notified Respondent of the fall. Respondent assessed Resident A.

6. Respondent stated that she took vital signs every fifteen minutes, which were within normal limits and thus did not chart the vital signs in the nursing notes.

7. Respondent documented Resident A's vital signs in the neuro folder; however, Respondent did not document when the vital signs were taken. Therefore, it is unknown when and how frequently the vital signs were taken.

8. Respondent admitted to not reporting Resident A's fall.

9. Respondent's employment was terminated from the Facility for failure to report or chart Resident A's fall per policy on falls at the Facility.

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, Respondent Melanie S. Wagner, L.P.N., violated Wis. Admin. Code § N 7.03(6)(a), by failing to perform nursing with reasonable skill and safety.

3. By the conduct described in the Findings of Fact, Respondent Melanie S. Wagner, L.P.N., violated Wis. Admin. Code § N 7.03(6)(c), by departing from or failing to conform to the minimal standards of acceptable nursing practice that may create unnecessary risk or danger to a patient's life, health, or safety. Actual injury to a patient need not be established.

4. As a result of the above conduct, Respondent Melanie S. Wagner, L.P.N., is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Melanie S. Wagner, L.P.N., is REPRIMANDED.

3. The practical nursing license issued to Melanie S. Wagner, L.P.N. (license number 315408-31) and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, are LIMITED as follows:

- a. Within ninety (90) days of the date of this Order, Respondent shall at her own expense, successfully complete three (3) hours of education on the topic of ethics and professionalism in nursing and five (5) hours of education on the topic of documentation 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. Pursuant to 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.

5. Within 120 days from the date of this Order, Melanie S. Wagner, L.P.N., shall pay COSTS of this matter in the amount of \$778.00.

6. Request for 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 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 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

7. In the event Respondent violates any term of this Order, Respondent's license (315408-31), or Respondent's right to renew her license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with

the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN BOARD OF NURSING

by: Devin Krause
A Member of the Board

2-8-18
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MELANIE S. WAGNER, L.P.N.,
RESPONDENT.

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:

STIPULATION

0005627

Division of Legal Services and Compliance Case No. 16 NUR 668

Respondent Melanie S. Wagner, 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.

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.

Melanie S. Wagner
Melanie S. Wagner, L.P.N., Respondent
507 East Broadway
Medford, WI 54451
License no. 315408-31

January 2, 2018
Date

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

1/12/18
Date