

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE RADIOGRAPHY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

EMMA C. NEWKIRK, R.T.,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0006319

Division of Legal Services and Compliance Case No. 18 RAD 004

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

Emma C. Newkirk, R.T.
W175 S6995 Hiawatha Drive
Muskego, WI 53150

Wisconsin Radiography Examining Board
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 Radiography Examining Board (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 Emma C. Newkirk, R.T., (D.O.B. November 10, 1989), is licensed in the state of Wisconsin to practice radiography, having license number 5580-142, first issued on August 10, 2012, and current through August 31, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is W175 S6695 Hiawatha Drive, Muskego, Wisconsin 53150.

2. At all times relevant to this proceeding, Respondent was employed as a radiographer at a hospital located in Milwaukee, Wisconsin.

ORDER 0006319

3. On February 18, 2018, Respondent came on her shift to relieve Radiographer A, whose shift was ending. Radiographer A said that she was experiencing pain in her foot and wanted to have it radiographically scanned. Respondent scanned Radiographer A's foot. Respondent and Radiographer A looked at the image and then deleted the image because they had no intention of having the image read or getting a diagnosis by a physician.

4. In June of 2018, the American Registry of Radiologic Technologists (ARRT) reprimanded Respondent. ARRT determined that the conduct violated the Standard of Ethics. ARRT did not limit Respondent's right to use the ARRT credential for employment.

CONCLUSIONS OF LAW

1. The Wisconsin Radiography Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 462.07(2), 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 Emma C. Newkirk, R.T., violated Wis. Stat. § 462.04 by using diagnostic X-ray equipment on humans for diagnostic purposes without a prescription order from a physician, dentist, podiatrist, chiropractor, advanced practice prescriber, or physician assistant.

3. By the conduct described in the Findings of Fact, Respondent Emma C. Newkirk, R.T., engaged in unprofessional conduct as defined by Wis. Admin. Code § RAD 6.01(1) by engaging in any practice or behavior which violates the minimum standards for the profession necessary for the protection of the health, safety, or welfare of a patient or the public.

4. By the conduct described in the Findings of Fact, Respondent Emma C. Newkirk, R.T., engaged in unprofessional conduct as defined by Wis. Admin. Code § RAD 6.01(6) by practicing outside of the scope of practice or standards of practice authorized by the individual's licensed or permit or a certificate of registration with ARRT.

5. As a result of the above conduct, Emma C. Newkirk, R.T., is subject to discipline pursuant to Wis. Stat. § 462.07(2)(b).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Emma C. Newkirk, R.T. is REPRIMANDED.

3. The radiography license issued to Emma C. Newkirk, R.T., (license number 5580-142), is LIMITED as follows:

a. Within six (6) months of the date of this Order, Respondent shall successfully complete six (6) hours of education on the topic of ethics and law for imaging technologists.

b. Respondent shall be responsible for obtaining the course(s) required under this Order, for providing adequate course(s) descriptions to the Department Monitor, and for obtaining pre-approval of the course(s) from the Board, or its designee, prior to commencement of the course(s).

c. The Board or its designee may reject any course(s) and may accept a course(s) for less than the number of hours for which Respondent seeks approval.

d. Within thirty (30) days of completion of each educational component, Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated below.

e. Respondent is responsible for all costs associated with compliance with this educational requirement.

f. None of the education completed pursuant to this requirement may be used to satisfy any other continuing education requirements that have been or may be instituted by the Board or Department.

4. Within 90 days from the date of this Order, Emma C. Newkirk, R.T., shall pay COSTS of this matter in the amount of \$225.00.

5. 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

You may also submit this information online via DSPS' Monitoring Case Management System, here:

<https://app.wi.gov/DSPSMonitoring>

6. In the event Respondent violates any term of this Order, Respondent's license (no. 5580-142), 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.

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

WISCONSIN RADIOGRAPHY EXAMINING BOARD

by: Donald Berst / apu
A Member of the Board

7.31.19
Date

STATE OF WISCONSIN
BEFORE THE RADIOGRAPHY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

EMMA C. NEWKIRK, R.T.
RESPONDENT.

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STIPULATION

ORDER 0006319

Division of Legal Services and Compliance Case No. 18 RAD 004

Respondent Emma C. Newkirk, R.T. 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 Radiography Examining Board (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

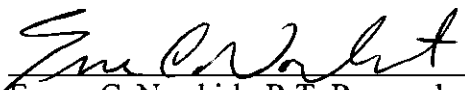
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of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted 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.

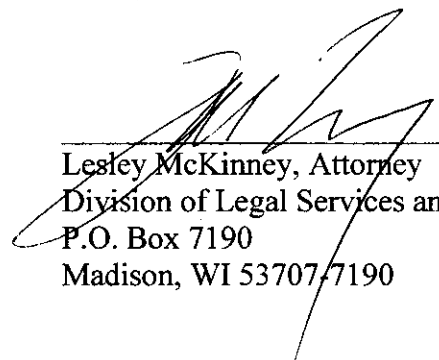
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Emma C. Newkirk, R.T. Respondent
W175 S6995 Hiawatha Dr.
Muskego, WI 53150
License no. 5580-142

3/13/19

Date



Lesley McKinney, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

3/15/19

Date