

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

THERESA M. LUBICH, L.P.N.,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0008752

Division of Legal Services and Compliance Case No. 22 NUR 246

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

Theresa M. Lubich, L.P.N.
Siren, WI 54872

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 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 Theresa M. Lubich, L.P.N., (Year of Birth 1970) is licensed in the state of Wisconsin as a licensed practical nurse with multistate privileges pursuant to the Nurse Licensure Compact (Compact), having license number 33575-31, first issued on April 8, 1996, and current through April 30, 2025. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Siren, Wisconsin 54872.

2. At all times relevant to this proceeding, Respondent worked as a licensed practical nurse at a nursing home in Frederic, Wisconsin (Facility).

Prior Discipline

3. On April 2, 2009, the Board issued Order No. LS0904027NUR, which reprimanded Respondent and ordered her to complete education and submit quarterly work reports. The Board found Respondent failed to check the blood sugars of several diabetic patients and falsified the blood sugar readings in the patient records at the nursing home where she was employed. The Board returned Respondent's license to full, unrestricted status on October 21, 2014.

Current Case

4. On April 6, 2022, a Facility CNA reported to management that Respondent was directing CNAs to administer medications, including controlled substances, to Facility residents.

5. The Facility interviewed the CNAs and non-certified aides. Five of them said Respondent asked them to administer medications to various residents on various occasions.

6. One CNA said Respondent asked her to administer medications "almost every shift I worked on nights." Another CNA said that Respondent told her not to say anything about it to anyone.

7. On April 8, 2022, the Facility terminated Respondent's employment for "having CNAs give medications numerous times."

8. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Board 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 delegated a nursing function or a prescribed health function when the delegation could reasonably be expected to result in unsafe or ineffective patient care, which is grounds for taking disciplinary action on her license pursuant to Wis. Admin. Code § N 7.03(7)(a).

3. By the conduct described in the Findings of Fact, Respondent knowingly aided, assisted, advised, or allowed a person to engage in the unlawful practice of nursing, which is grounds for taking disciplinary action on her license pursuant to Wis. Admin. Code § N 7.03(7)(b).

4. By the conduct described in the Findings of Fact, Respondent engaged in inappropriate or inadequate supervision or delegation, which is grounds for taking disciplinary action on her license pursuant to Wis. Admin. Code § N 7.03(7)(c).

5. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d), and Wis. Admin. Code § N 7.03.

ORDER

1. The attached Stipulation is accepted.
2. Respondent is REPRIMANDED.
3. Respondent's license to practice as a licensed practical nurse in the state of Wisconsin (license number 33575-31), and her privilege to practice in Wisconsin pursuant to the 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 professional ethics, and three (3) hours of education on the topic of nursing scope of practice 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. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Respondent. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.
 - d. This limitation shall be removed from Respondent's license after satisfying the Board or its designee that Respondent has successfully completed all the ordered education.
4. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$599.00.
5. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted to:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dpspsmonitoring.wi.gov>.

6. Pursuant to Wis. Stat. § 441.51(5)(b), Respondent's multistate licensure privilege to practice in all Compact states besides Wisconsin is deactivated during the pendency of this Order.

7. In the event Respondent violates any term of this Order, Respondent's license (number 33575-31), 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:

 A Member of the Board of Nursing

9/14/2023

 Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

THERESA M. LUBICH, L.P.N.,
RESPONDENT.

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STIPULATION

ORDER 0008752

Division of Legal Services and Compliance Case No. 22 NUR 246

Respondent Theresa M. Lubich, 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

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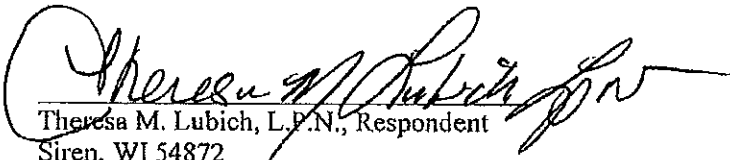
of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

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.

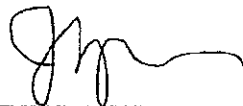
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.

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


Theresa M. Lubich, L.P.N., Respondent
Siren, WI 54872
License No. 33575-91

8-7-23.
Date


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

8/7/2023
Date