

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 :
 : FINAL DECISION AND ORDER
JASON A. FOGT, L.P.N., :
RESPONDENT. : **ORDER 0008848**

Division of Legal Services and Compliance Case No. 21 NUR 334

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

Jason A. Fogt, L.P.N.
Mount Pleasant, WI 53406

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 Jason A. Fogt, 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 33672-31, first issued on June 27, 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 Mount Pleasant, Wisconsin 53406.

2. At all times relevant to this proceeding, Respondent worked as a licensed practical nurse at a facility located in Union Grove, Wisconsin (Facility).

3. On May 4, 2021, Patient A had two unwitnessed falls. The first occurred between 12:00 a.m. and 1:00 a.m. A CNA reported the fall to Respondent. Respondent documented Patient

A's vitals, but did not complete an assessment, notify a nurse supervisor, or document the fall. Respondent instructed the CNA to assist Respondent with transferring Patient A back in bed. The second fall occurred at 6:00 a.m. Respondent notified the RN supervisor of the second fall, who completed an assessment.

4. On May 6, 2021, at approximately 2:11 a.m., Respondent documented Patient A's vital signs as being within normal limits. At approximately 3:00 a.m., less than an hour later, a Facility RN took Patient A's vitals and found that Patient A had a temperature of 104°F, low blood pressure, low oxygen saturation, and an elevated heart rate. These vitals differed significantly from those documented by Respondent. Patient A was transported and admitted to a hospital with diagnoses that included severe sepsis, healthcare-associated pneumonia, catheter-associated urinary tract infection, and acute hypoxic respiratory failure. Respondent's failure to obtain accurate vitals caused a delay in care for Patient A.

5. On May 6, 2021, Respondent improperly lifted Patient B off the floor after a fall without the use of a Hoyer lift. As a CNA was obtaining the Hoyer lift from another unit, Respondent instructed another CNA to help Respondent lift the patient into bed. Facility policy required staff to use a Hoyer lift when possible.

6. On May 6, 2021, Patient C's colostomy bag detached from the patient's stoma. Respondent did not assist the Patient and instead delegated the task to a nursing assistant that did not know how to replace the colostomy bag. When the nursing assistant told Respondent she did not know how to change the colostomy bag, Respondent replied that she should know how and told her to go do it.

7. 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 engaged in unsafe practice or substandard care, by failing to perform nursing with reasonable skill and safety within the meaning of Wis. Admin. Code § N 7.03(6)(a).

3. 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 (license number 33672-31), and privilege to practice in Wisconsin pursuant to the Compact, are LIMITED as follows:

- a. Within 90 days of the date of this Order, Respondent shall at their own expense, successfully complete three (3) hours of education on the topic of documentation, four (4) hours of education on the topic of professional accountability and legal liability for nurses, and three (3) hours of education on the topic of critical thinking skills for nurses 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 90 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,675.00.

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
DPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dpsmonitoring.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 33672-31), or Respondent's right to renew his 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: *Vera G. [Signature]*
A Member of the Board of Nursing

11/9/23
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JASON A. FOGT, L.P.N.,
RESPONDENT.

:
:
:
:
:

STIPULATION

ORDER 0008848

Division of Legal Services and Compliance Case No. 21 NUR 334

Respondent Jason A. Focht, 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. Respondent is represented by Attorney Kristen Nelson.

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 or Respondent's attorney, 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.

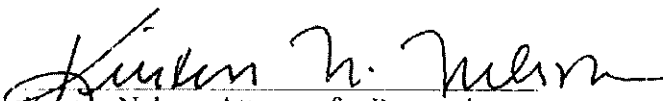
9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Jason A. Fogt, L.P.N., Respondent
Mount Pleasant, WI 53406
License No. 33672-31

10/5/23

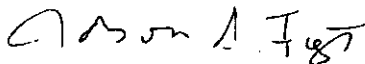
Date



Kristen Nelson, Attorney for Respondent
Gimbel, Reilly, Guerin & Brown, LLP
330 E. Kilbourn Ave., Ste. 1170
Milwaukee, WI 53202

10/3/23

Date



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

09/22/2023

Date