

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
JANET R. VAN EPPS, R.N.,	:	91 NUR 080
RESPONDENT	:	

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Janet R. Van Epps
702 Edgewater Street
Portage, WI 53901

Board of Nursing
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation consenting to this order as the final decision of this matter, subject to the approval of the Board. In resolution of this matter, Janet R. Van Epps neither admits nor denies the allegations of Counts IV and V of the Complaint in these proceedings. For the purposes of this action only and in resolution of these proceedings, Ms. Van Epps agrees and consents to the issuance of the following Findings of Fact, Conclusions of Law, and Order. The parties further agree that for the purposes of a petition by Ms. Van Epps under the terms of this order for a return to active licensure status, the Board and any health care provider performing a mental health assessment pursuant to ¶(a) of this Order shall treat all the allegations of the Complaint as true.

The Board has reviewed the Stipulation Order and considers them acceptable. Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Janet R. Van Epps, R.N. (D.O.B. 10/24/48) is duly licensed as a registered nurse in the state of Wisconsin (license # 54294). This license was first granted on September 17, 1971.

2. Ms. Van Epps's most recent address on file with the Wisconsin Board of Nursing is 702 Edgewater Street, Portage, WI 53901.

3. At all times described hereafter, Ms. Van Epps was working as a Public Health Educator II with the Division of Health in the Wisconsin Department of Health and Social Services. In this capacity, Ms. Van Epps worked as a disease intervention specialist with the Sexually Transmitted Diseases Section.

4. On an exact date unknown but prior to September 24, 1990, Ms. Van Epps falsified a serology report to read positive for RPR (syphilis) for blood donated by a woman ["Ms. A"] to the American Red Cross, Badger Chapter. The Red Cross report for this individual only read positive for hepatitis [HBC].

5. Ms. Van Epps failed to appropriately refer the positive hepatitis report for Ms. A for follow-up investigation. Ms. Van Epps assigned herself instead as investigator for follow-up of Ms. A's falsified positive report for syphilis and interviewed Ms. A for sexual history and testing on or about September 24, 1990. Ms. Van Epps had no authority in her position with DHSS to follow hepatitis carriers.

6. Ms. Van Epps falsely identified a male ["Mr. B"] as a prior sexual contact identified by Ms. A, pursuant to Ms. Van Epps's interview(s) with Ms. A.

7. Prior to October, 1990, Ms. Van Epps had engaged in a relationship that included sexual contact with Mr. B. In light of her prior intimate relationship with Mr. B, Ms. Van Epps had a professional responsibility to disqualify herself from further STD investigation involving Mr. B.

8. On or about October 2, 1991, Ms. Van Epps interviewed Mr. B for sexual history and testing. Ms. Van Epps submitted the blood sample she obtained from Mr. B for analysis for the presence of HIV antibody without Mr. B's prior consent or approval. In addition, Ms. Van Epps failed to maintain appropriate records of her investigation involving Ms. A and Mr. B.

CONCLUSIONS OF LAW

By the conduct described above, Janet R. Van Epps is subject to disciplinary action against her license, pursuant to Wis. Stats. §§146.025(2), 943.38(1)(b) and (3), 946.12(2), (3) and (4), 946.69(1) and (2), and 441.07(1); and Wis. Adm. Code §§N6.03(2), N6.05, N7.03(1) and (3), and N7.04(1), (6) and (15).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED

that the license of Janet R. Van Epps to practice as a registered nurse in the State of Wisconsin is hereby SUSPENDED for an INDEFINITE PERIOD of time.

a) IT IS FURTHER ORDERED that Ms. Van Epps may petition the Board at any time following six (6) months after the effective date of this order for a stay of the suspension of her licensure. The petition should include documentation

*See
attach
p. 11*

from a mental health care provider acceptable to the Board that Ms. Van Epps has undergone a current and complete mental health assessment and that Ms. Van Epps can safely return to nursing. The assessment shall occur within thirty (30) days of its submission and reflect the fact that the person(s) performing the assessment received a copy of this Order for review prior to conducting the assessment. The assessment shall include: a description of the assessment process utilized; diagnosis; and recommendations for the need (if any) of future treatment and/or work restrictions.

Upon its determination that Janet R. Van Epps can safely and competently return to the active practice of nursing, the Board may stay the suspension for a period of three (3) months, conditioned upon compliance with the conditions and limitations outlined in paragraph (b), below.

i. Janet R. Van Epps may apply for consecutive three (3) month extensions of the stay of suspension, which shall be granted upon acceptable demonstration of compliance with the conditions and limitations imposed upon Ms. Van Epps' practice during the prior three (3) month period.

ii. If the Board denies the petition by Ms. Van Epps for an extension, the Board shall afford an opportunity for hearing in accordance with the procedures set forth in Wis. Adm. Code Ch. RL 1 upon timely receipt of a request for hearing.

iii. Upon a showing by Ms. Van Epps of complete, successful and continuous compliance for a period of one (1) year with the terms of paragraph (b), below, Ms. Van Epps may petition for modification of the limitations affecting Ms. Van Epps licensure, or for return of full licensure. The Board may, in its discretion, require that Ms. Van Epps complete at least six (6) months of nursing employment monitored under the conditions of paragraph (b) prior to the Board's issuance of a complete and unrestricted license.

Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. §§227.01(3) and 227.42.

(b) CONDITIONS OF STAY

i. If continued therapy or treatment is recommended by her mental health assessment, the Board may in the exercise of its discretion require Ms. Van Epps to maintain successful participation in a program of treatment at health care facility acceptable to the Board. As a part of treatment, Ms. Van Epps must attend therapy on a schedule as recommended by her therapist; the Board may, however, in its discretion establish a minimum number of therapy sessions per month.

ii. Upon request of the Board, Ms. Van Epps shall provide the Board with current releases complying with state and federal laws, authorizing release of

counseling, treatment and employment records.

iii. Ms. Van Epps shall follow any restrictions in her practice recommended by her assessment or current health care provider.

iv. Ms. Van Epps shall refrain from practicing as a charge nurse or in any other supervisory capacity as a nurse. She shall practice only in settings where she works under supervision by another nurse or other licensed health care professional.

v. Ms. Van Epps shall arrange for quarterly reports to the nursing Examining Board from her employer evaluating her work performance; and (if applicable) from her counselor evaluating Ms. Van Epps's attendance and progress in therapy.

vi. Ms. Van Epps shall immediately provide her employer with a copy of any denial of an extension of stay under this Order.

vii. Ms. Van Epps shall report to the Board any change in employment status, change of residence address or phone number, within five (5) days of any such change.

(c) Violation of any of the terms of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Ms. Van Epps's license; the Board in its discretion may in the alternative deny an extension of the stay of suspension or impose additional conditions and limitations other additional discipline for a violation of any of the terms of this Order.

(d) This Order shall become effective upon the date of its signing.

BOARD OF NURSING

By: Reguline Johnson RN MS 6/26/92
A Member of the Board Date

Situations in numbers 4 through 8 are not accurately described.

4. Ms. A's blood was tested for syphilis after her Antigo physician reported a lesion history. No falsification of records occurred.
5. After discussing the referral with Dr. Mary Proctor of DHSS General Epidemiology Unit, I referred the case follow-up to Dane County, Columbia County and Madison Health Departments. Dr. Proctor requested that I make the referral and Joanne Bongard of Dane County Health Department suggested that I explain the procedure to an inexperienced Madison Health Department staff. Also, hepatitis is commonly treated as sexually transmitted.
- 6.- 8. Mr. B. was advised by me to follow this with his private physician but he came to my home instead requesting that I draw his blood. I got his history by the Center for Disease Control's cluster interview procedure. He signed a consent form for the HIV testing. Records for all patients in this case were given directly to the patients when this particular case was opened for investigation in order to protect further disclosure by DHSS.

Mr. B. and I worked at the same prison and he had requested \$5,000.00 from me to purchase land with his father. He stated that he would file a complaint with the State if I would not provide him with the money. He has an extensive history of harassment complaints at the correctional institution and is known for his rumors.

If I had been given the privilege of an interview prior to the formal complaint and hearing, I might have had the opportunity to clear this matter. Now, I am not able to afford the legal counsel to do so and I cannot ethically disclose the necessary additional information from these and other individuals.

Janet R. VanEpps
6/15/92

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
JANET R. VAN EPPS, R.N.,	:	91 NUR 080
RESPONDENT	:	

It is hereby stipulated between Janet R. Van Epps, personally on her own behalf; and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered in resolution of the pending proceedings concerning Ms. Van Epps' license. The stipulation and order shall be presented directly to the Board of Nursing for its consideration for adoption.

2. Ms. Van Epps understands that by the signing of this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, 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 her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Ms. Van Epps is aware of her right to seek legal representation and has obtained legal advice prior to signing this stipulation.

4. Ms. Van Epps agrees to the adoption of the attached Final Decision and Order by the Board of Nursing. 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.

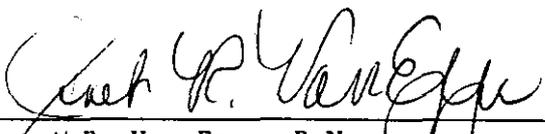
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. Attached to this Stipulation is the current licensure card of Janet R. Van Epps. If the Board accepts the Stipulation, Ms. Van Epps's license shall be reissued in only accordance with the terms of the attached Final

Decision and Order. If the Board does not accept this Stipulation, the license of Ms. Van Epps shall be returned to her with a notice of the Board's decision not to accept the Stipulation.

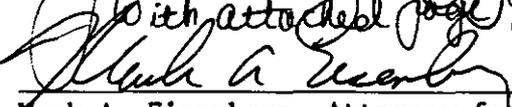
7. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Board of Nursing assigned as an advisor in this investigation may appear before the Board of Nursing for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

8. The Division of Enforcement joins Ms. Van Epps in recommending the Board of Nursing adopt this Stipulation and issue the attached Final Decision and Order.



Janet R. Van Epps, R.N.
With attached page 2 & 3

6/15/92
Date



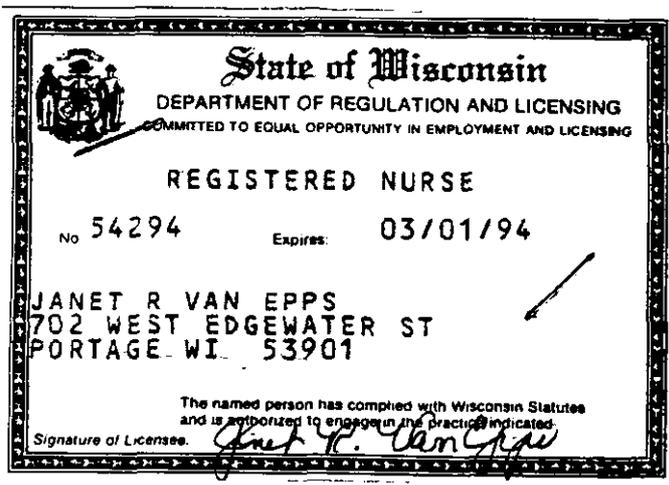
Mark A. Eisenberg, Attorney for
Janet R. Van Epps

6/15/92
Date



Steven M. Gloe, Attorney
Division of Enforcement

6-23-92
Date



NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Board of Nursing.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Board of Nursing

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Board of Nursing.

The date of mailing of this decision is July 2, 1992,