

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

[#1]

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

BONNIE HOLZEM DELVAUX, RN, :
RESPONDENT :

FINAL DECISION AND ORDER
97 NUR 187

LS9803062NUR

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Bonnie Holzem Delvaux, RN
8249 Oak Creek Drive
Baton Rouge, LA 70810

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 as the final decision of this matter, subject to the approval of the 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

1. Bonnie Holzem Delvaux, RN (DOB 2-15-45), is duly licensed in the state of Wisconsin to practice as a registered nurse (license #48256). This license was first granted on March 1, 1968.
2. Respondent's latest address on file with the Department of Regulation and Licensing is 8249 Oak Creek Drive, Baton Rouge, LA 70810.

3. On or about February 17, 1997, the Louisiana Board of Nursing imposed disciplinary action against the license of Respondent. A true and correct copy of the Louisiana February 17, 1997 Complaint and Settlement Order is attached and incorporated by reference into this document as Exhibit A.

4. Respondent consents to the issuance of the following Conclusions of Law and Order in resolution of this matter.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter, pursuant to ch. 441, Stats.

2. The Wisconsin Board of Nursing is authorized to enter into the attached stipulation, pursuant to sec. 227.44(5), Stats.

3. The conduct described above constitutes a basis for discipline under secs. 441.07(1)(c) and (d), Stats, and Wis. Admin. Code §§ N7.03(2) and N7.04(7) and (15).

ORDER

A. NOW, THEREFORE, IT IS HEREBY ORDERED that the attached Stipulation is accepted.

B. IT IS FURTHER ORDERED that the Wisconsin license of Bonnie Holzem Delvaux, RN is SUSPENDED for an INDEFINITE period of time. Ms. Delvaux shall immediately surrender all indicia of Wisconsin registration to the Department Monitor. Upon the grant of a petition for a stay of suspension pursuant to paragraph 2, below, the Board shall reissue registration credentials to Ms. Delvaux marked "limited."

2. Ms. Delvaux may petition the Board for a stay of the suspension of her licensure at any time. In conjunction with a petition by Ms. Delvaux, the Board shall require:

a. Current and full documentation acceptable to the Board from the state of Louisiana attesting to the status of Ms. Delvaux's Louisiana license, including documentation of her compliance with the terms and conditions imposed against her in conjunction with the discipline imposed upon her Louisiana license. If other governmental agencies or state boards have taken adverse action against Ms. Delvaux, the documentation submitted must include the status of all such actions;

b. A current chemical dependency assessment from source acceptable to the Board addressing the status of Ms. Delvaux's rehabilitation;

c. In the exercise of its discretion, the Board may in addition require a personal appearance by Ms. Delvaux to answer questions in conjunction with her petition.

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 secs. 227.01(3) and 227.42, Wis. Stats.

3. Upon its completion of review of a petition under this Order, the Board may in its discretion issue a stay of suspension *conditioned upon such terms and conditions as the Board deems appropriate, including but not limited to the following:*

a. Ms. Delvaux shall maintain complete compliance with all terms and conditions imposed upon her Louisiana license. Respondent shall arrange for quarterly reports to the Department Monitor from the Louisiana Board of Nursing documenting compliance with the terms and conditions affecting her Louisiana license.

b. Respondent shall provide the Board with current releases complying with state and federal laws, authorizing release and access to her records with the Louisiana Board of Nursing and from her current chemical dependency treatment providers.

d. Ms. Delvaux may petition the Board for removal or revision of any of the terms and conditions imposed pursuant to this Order at any time following successful completion of all probationary terms imposed against her Louisiana 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 secs. 227.01(3) and 227.42, Wis. Stats.

4. Any petition or report submitted under this order shall be submitted to:

Department Monitor
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935
FAX (608) 266-2264
TEL. (608) 267-7139

C. Violation of any of the terms of this Order or the conditions imposed as a result of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license; the Board in its discretion may in the alternative impose additional conditions and limitations and/or other additional discipline for a violation of any of the terms of this Order.

D. This Order shall become effective on the date of its signing.

BOARD OF NURSING

By: 
A Member of the Board

6 MAR 98
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
BONNIE HOLZEM DELVAUX, RN	:	97 NUR 187
RESPONDENT	:	

It is hereby stipulated between Bonnie Holzem Delvaux, RN 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 into as a result of a pending investigation of Ms. Delvaux's licensure by the Division of Enforcement (97 NUR 187). Ms. Delvaux consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Ms. Delvaux 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, the Wisconsin Administrative Code, and the Americans with Disabilities Act of 1990.

3. Ms. Delvaux is aware of her right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this stipulation.

4. Ms. Delvaux 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.

6. Attached to this Stipulation is the current licensure card of Bonnie Holzem Delvaux. If the Board accepts the Stipulation, Ms. Delvaux's license shall be reissued only in accordance with the terms of the attached Final Decision and Order. If the Board does not accept this Stipulation, the license of Ms. Delvaux shall be returned to her with a notice of the Board's decision not to accept the Stipulation.

7. 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.

8. 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 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.

9. The Division of Enforcement joins Ms. Delvaux in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

Bonnie Holzem Delvaux, RN
Bonnie Holzem Delvaux, RN

2/11/98
Date

Steven M. Gloe
Steven M. Gloe, Attorney
Division of Enforcement

2-17-98
Date

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE BOARD OF NURSING

In the Matter of the Disciplinary Proceedings Against

Bonnie Holzem Delvaux, RN,

AFFIDAVIT OF MAILING

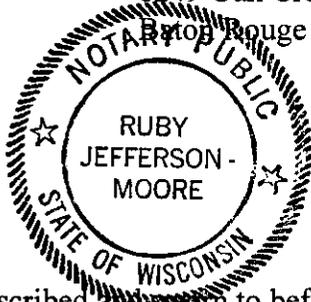
Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On March 10, 1998, I served the Final Decision and Order dated March 6, 1998, LS9803062NUR, upon the Respondent Bonnie Holzem Delvaux, RN by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 158 822.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

Bonnie Holzem Delvaux, RN
8249 Oak Creek Drive
Baton Rouge LA 70810



Kate Rotenberg

Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me
this 10th day of March, 1998.

Ruby Jefferson-Moore

Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: BONNIE HOLZEM DELVAUX RN

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 3/10/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935

FILE COPY

State of Wisconsin
Before the Board of Nursing

In the Matter of Disciplinary Proceedings Against

Susan F. Dibble, R.N.

Respondent

Case No. 95 NUR 203

LS980129INUR

Final Decision and Order

The parties to this proceeding for purposes of s. 227.53, Stats., are:

Susan F. Dibble, R.N.
5701 85th Street
Kenosha WI 53142

Board of Nursing
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

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

The parties having agreed to the attached stipulation, the Board of Nursing makes the following:

FINDINGS OF FACT

1. Susan F. Dibble, R.N., formerly known as Susan F. Heck, R.N., was born on November 13, 1959, and is licensed to practice as a registered nurse in Wisconsin pursuant to license number 112505, first granted on March 24, 1993. At all times relevant to this matter, she was employed by Ridgewood Care Center, Racine, Wisconsin.
2. On September 2, 1995, Ms. Dibble was present when a certified nursing assistant used excessive force against Patient M.L., a resident of the facility, during morning cares. Patient M.L. had been violently resistive of morning cares.
3. Ms. Dibble did not recognize that the conduct of the CNA in assisting with the morning cares constituted excessive force and abuse of Patient M.L.

4. The Bureau of Quality Assurance has required that the facility complete an annual in-service of all employees, including Ms. Dibble, on the recognition and prevention of patient abuse.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in this matter pursuant to s. 441.07, Stats.
2. By her failure to recognize and prevent the use of excessive force against a patient in her care, Ms. Dibble violated s. N 7.03(1), Wis. Admin. Code.

ORDER

Now, therefore, it is ordered that Susan F. Dibble, R.N., be and hereby is reprimanded.

Dated this 29th day of January, 1998.

Wisconsin Board of Nursing


A Member of the Board

State of Wisconsin
Before the Board of Nursing

In the Matter of Disciplinary Proceedings Against

Susan F. Dibble, R.N.
Respondent
Case No. 95 NUR 203

Stipulation

It is hereby stipulated between Susan F. Dibble, R.N., personally and on her own behalf, and James E. Polewski, Attorney for the Division of Enforcement, Department of Regulation and Licensing, as follows:

1. This stipulation is entered in resolution of the pending matter concerning Ms. Dibble's license. The Stipulation and the proposed Final Decision and Order shall be presented directly to the Board of Nursing for its consideration and adoption.
2. In resolution of these proceedings, Ms. Dibble consents to the entry of the attached Final Decision and Order.
3. Ms. Dibble is aware of and understands each of her rights, including:
 - the right to a hearing on the allegations against her, at which the state would have the burden of proving the 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 own 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,
 - the right to be represented at every stage of the proceeding, including the making of any stipulation, by an attorney of her choosing, at her own expense,
 - all other rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
4. Ms. Dibble is aware and understands that by signing this stipulation she voluntarily and knowingly waives the rights set forth in paragraph 3 above, and does voluntarily and knowingly waive those rights.
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. 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 for the purpose of speaking in favor of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

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 the monthly *Report of Decisions* issued by the department. A summary of the order will be published in the *Wisconsin Regulatory Digest* issued semiannually by the Board. A press release will be prepared and distributed to all press boxes in the State Capitol building, to the press in the community where respondent resides and practices, and to individuals and organizations included on a mailing list maintained by the department. This is standard department procedure and in no way specially directed at Respondent.

Susan F. Dibble
Susan F. Dibble, R.N.
(Formerly Susan F. Heck, R.N.)

1/19/98
Date

James E. Polewski
James E. Polewski
Attorney
Division of Enforcement

January 13, 1998
Date

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE BOARD OF NURSING

In the Matter of Disciplinary Proceedings Against

Susan F. Dibble, R.N.,

AFFIDAVIT OF MAILING

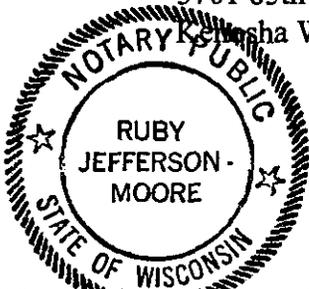
Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On February 3, 1998, I served the Final Decision and Order dated January 29, 1998, LS9801291NUR, upon the Respondent Susan F. Dibble, R.N. by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 158 311.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

Susan F. Dibble, R.N.
5701 85th Street
Keshishsha WI 53142



Kate Rotenberg

Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 3rd day of February, 1998.

Ruby Jefferson-Moore

Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: SUSAN F DIBBLE RN

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 2/3/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935