

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 :
 : LS0403047NUR
BRENDA J. WENTA, LPN, :
RESPONDENT. :

FINAL DECISION AND ORDER

The parties to this action for the purposes of § 227.53, Stats., are:

Brenda J. Wenta, LPN
N9698 US Hwy 14
Darien WI 53114

Wisconsin 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 of Nursing. 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. Brenda Jean Wenta, LPN, Respondent, date of birth January 30, 1957, is licensed by the Wisconsin Board of Nursing as a licensed practical nurse in the state of Wisconsin pursuant to license number 34590, which was first granted February 20, 1998.
2. Respondent's last address reported to the Department of Regulation and Licensing is N9698 US Hwy 14, Darien, WI 53114.
3. On June 9, 1993, Respondent received treatment from a psychiatrist at Walworth County Department of Human Services in Elkhorn, Wisconsin. She was diagnosed with major depression, alcohol dependence and cannabis dependence, all in remission. The medical record note for that date indicates: "She also admits to a long history of polysubstance abuse in recent years, primarily alcohol and marijuana. She states she has not used alcohol in the last 10 months and has been 39 days since she used marijuana."
4. In May 2001, Respondent was employed as a practical nurse at Rogers Memorial Hospital in Oconomowoc, Wisconsin. During her employment at Rogers, Respondent began to increase her marijuana use. She also diverted narcotics from the hospital, which resulted in the termination of her employment in Spring 2002.
5. Later in 2002, Respondent obtained employment as a practical nurse at the Williams Bay Care Center (Center) in Williams Bay, Wisconsin. While working at the Center in September and October 2002, Respondent stole the following schedule II controlled substances from the Center's medication room:

- a. Duragesic brand of fentanyl patches: one 25 mg. and two 50 mg.
- b. Morphine tablets and suppositories: eight 10 mg., nine 15 mg. and six 30 mg.
- c. Morphine injectable tubex: four 10 mg.
- d. Morphine oral solution: seven 20 mg.
- e. Demerol brand of meperidine injectable tubex: eight 50 mg.
- f. Oxycodone, including Oxycontin brand, twelve 5 mg., thirteen 10 mg. and fourteen 20 mg.

6. Following investigations by the Center and the police, on October 28, 2002, Respondent admitted to diverting these medications. She told the Center's administrator that Respondent used the Oxycontin herself and sold the rest of the narcotics to pay her bills.

7. On December 12, 2002, Respondent's psychiatrist diagnosed major depression, alcohol dependence in remission, cannabis abuse, opiate dependence and noted:

"She took a job at Williams Bay Care Center and again began to get involved in narcotic use. She states she used any of the opiates available and at times was even injecting herself with things such as Vistaril. She also used Duragesic patches. Apparently this was discovered and an investigation was done. She states that she told them she was selling it rather than admit to using it herself."

8. On December 19, 2002, Respondent told her counselor that she had used drugs while working. She denied selling any of the drugs she took.

9. In January 2003, Respondent completed 30 days of substance abuse treatment at New Dawn Treatment Facility in Janesville, Wisconsin and was referred to River Commons in Janesville for further treatment. She was discharged from River Commons on February 10, 2003 for violating rules by engaging in sexual conduct with another patient. Her discharge prognosis was poor.

10. The following occurred in Walworth County Wisconsin Circuit Court case number 2003CF000293 as a result of Respondent taking the controlled substances from the Center:

- a. On June 12, 2003, Respondent was charged with violating:
 - i. §961.41(1m)(a), Stats, possession of a narcotic schedule II drug with intent to deliver [3 counts].
 - ii. §943.20(1)(a), Stats., theft [3 counts].

- b. On October 7, 2003, as a result of a plea bargain, Respondent was convicted of:
 - i. §961.41(3g)(a)1, Stats., possession of narcotic drugs, a felony [Count 1 amended from possession with intent to deliver]. The two other counts of possession with intent to deliver were dismissed and read in for sentencing.
 - ii. §943.20(1)(a), Stats., theft, a misdemeanor [Count 5]. The two other counts of theft were dismissed and read in for sentencing.
- c. Respondent was sentenced to 2 years probation. Terms of probation included:
 - i. 75 days jail time, beginning December 5, 2003.
 - ii. AODA assessment and follow-through.
 - iii. No alcohol, illegal drugs or drug paraphernalia.
 - iv. Counseling as recommended by probation officer.
 - v. Self report to Board of Nursing.

11. § 961.41(3g)(am), Stats., possession of a schedule II controlled substance without the order of a practitioner, is a law substantially related to practice under Respondent's license.

12. § 943.20(1)(a), Stats., theft, is a law substantially related to practice under Respondent's license.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to § 441.07, Stats.

2. The Wisconsin Board of Nursing has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.

3. Respondent, by engaging in the conduct set out above, has violated laws substantially related to practice under her license, and has committed misconduct and unprofessional conduct as defined by Wis. Adm. Code § N 7.04(1), which subjects Respondent to discipline pursuant to § 441.07(1)(d), Stats.

4. Respondent, by engaging in the conduct set out above, has administered, supplied and obtained drugs other than in the course of legitimate practice and as otherwise prohibited by law, and has committed misconduct and unprofessional conduct as defined by Wis. Adm. Code § N 7.04(2), which subjects Respondent to discipline pursuant to § 441.07(1)(d), Stats.

5. Respondent, by engaging in the conduct set out above, has abused drugs to an extent that such use impairs the ability of the licensee to safely or reliably practice, as defined by Wis. Adm. Code § N 7.03(2), which subjects Respondent to discipline pursuant to § 441.07(1)(c), Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The SURRENDER by Brenda Jean Wentz, LPN, Respondent, of her license as a licensed practical nurse in the state of Wisconsin is hereby ACCEPTED, effective immediately.
2. Respondent shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing

costs of this proceeding in the amount of \$725.00 pursuant to § 440.22(2), Stats.

3. Payment shall be mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Telephone (608) 267-3817

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin this 4th day of March, 2004.

Jacqueline A. Johnsrud, R.N.
Chairperson
Board of Nursing