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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
JULIA M. GODBOLT, L.P.N., RESPONDENT.	:	LS9407291NUR

The State of Wisconsin, Board of Nusing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

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

Dated this 4 day of November 1994.

Jacqueline Johnson RN MS

unprofessional
upd office & downgrade
w/o action for 2 yrs
30 day suspension
pf

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST	:	PROPOSED DECISION
JULIA M. GODBOLT, L.P.N., RESPONDENT.	:	(Case No. LS9407291NUR)

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

Julia M. Godbolt, L.P.N.
2944 North 45th Street
Milwaukee, WI 53218

State of Wisconsin
Board of Nursing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

State of Wisconsin
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

A hearing was held in the above-captioned matter on September 15, 1994. The complainant appeared by Attorney Steven M. Gloe, Department of Regulation and Licensing, Division of Enforcement, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708. The respondent, Julia M. Godbolt, did not appear nor was anyone present to represent her.

Based upon the record herein, the administrative law judge recommends that the Board of Nursing adopt as its final decision in this proceeding the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Julia M. Godbolt (D.O.B. 8/6/53) is duly licensed as a practical nurse in the State of Wisconsin, pursuant to license #26030 which was first granted on May 26, 1983.

2. Ms. Godbolt's most recent address known to the complainant, Division of Enforcement, is 2944 North 45th Street, Milwaukee, Wisconsin 53218.

3. At all times relevant to this action and from January 11, 1993 through February 4, 1994, Ms. Godbolt was employed as a practical nurse for the Milwaukee 27th Street Methadone Clinic [Milwaukee Medical Service Systems], 4383 North 27th Street, Milwaukee, Wisconsin.

4. On exact dates unknown, but on multiple occasions during her employment at the 27th Street clinic, Ms. Godbolt engaged in "up-dosing" or "down-dosing" by one or two milligrams patients who came to the clinic for receipt of methadone injections, in order to assure that the daily accounting records required by the federal Drug Enforcement Administration for methadone came out correctly at the end of the day. Methadone is a schedule II controlled substance.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in this proceeding pursuant to sec. 441.07, Stats.

2. Julia M. Godbolt is in default in this proceeding due to her failure to file an Answer to the Complaint or appear at the hearing. Accordingly, the Board of Nursing may make findings and enter an order on the basis of the Complaint and other evidence, pursuant to sec. RL 2.14, Wis. Adm. Code.

3. By the conduct set forth in paragraph 4 of the Findings of Fact, Julia M. Godbolt is subject to disciplinary action against her license to practice as a practical nurse in the State of Wisconsin, pursuant to sec. 441.07(1), Stats., and secs. N 7.04(1), (2) and (15), Wis. Adm. Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Julia M. Godbolt to practice as a practical nurse in the State of Wisconsin shall be SUSPENDED for an indefinite period of time, effective thirty (30) days following the date of the Final Decision and Order of the Board of Nursing.

FURTHERMORE, IT IS ORDERED that Julia M. Godbolt may petition the Board of Nursing for reinstatement of her license at any time. The Board of Nursing may grant the petition in the exercise of its sound discretion, and in doing so may impose such limitations, terms and conditions upon the reinstated license as it deems reasonably appropriate and necessary to protect the public health, safety or welfare.

FURTHERMORE, IT IS ORDERED that the assessable costs of this proceeding be imposed upon Julia M. Godbolt, pursuant to sec. 440.22, Stats.

OPINION

The respondent, Julia M. Godbolt, is charged with having violated, or aided and abetted the violation of a law substantially related to practical nursing, under sec. N 7.04(1), Wis. Adm. Code; administering a drug other than in the course of legitimate practice or as otherwise prohibited by law, under sec. N. 7.04(2), Wis. Adm. Code; and violating the foregoing rules of the Board of Nursing, under sec. N 7.04(15), Wis. Adm. Code. Pursuant to sec. N 7.04 (intro.), Wis. Adm. Code, such violations constitute "misconduct or unprofessional conduct" under sec. 441.07(1)(d), Stats., for disciplinary purposes.

Simply stated, the factual allegations are that Ms. Godbolt, while employed at a methadone treatment clinic for individuals addicted to heroin, administered amounts of methadone to patients which varied from the related medical orders, so that the required accounting for methadone at the end of the day would come out "correct". Ms. Godbolt did not file a written Answer to the Complaint, nor did she appear at the evidentiary hearing. Accordingly, complainant's attorney requested that Ms. Godbolt be found in default under sec. RL 2.14, Wis. Adm. Code. This request was granted, contingent upon the submission of evidence supporting the allegations within the Complaint.

The evidence at hearing consisted of testimony from Kathy L. Edwards-Federico, a Diversion Investigator with the federal Drug Enforcement Administration. She testified that the DEA had commenced an investigation regarding two bottles of methadone, each containing approximately 100 tablets, which had been found to be missing from the clinic in December, 1993. Ms. Godbolt did not cooperate with the DEA's investigation, eventually refusing to even accept telephone calls from investigators. Accordingly, the DEA contacted this department's Division of Enforcement for assistance and Ms. Godbolt was subsequently subpoenaed for a meeting with representatives of the Division of Enforcement and the DEA at the latter's regional office in Milwaukee, Wisconsin. Ms. Godbolt appeared at that meeting on May 4, 1994. During the interview, Ms. Godbolt admitted that she had been involved in a practice at the methadone clinic during her employment whereby patients would be provided with either more or less methadone than that actually ordered by physicians in order to assure that the daily accounting records for methadone, which are required to be kept by the DEA, would balance. At least one co-worker of Ms. Godbolt's informed the DEA that the practice of altering the amount actually administered to patients from the medical orders was referred to internally as "Julia dosing".

Given the testimony presented, as well as respondent's failure to file an Answer or appear at the hearing, the allegations contained within the Complaint are accepted as true and are set forth as such within the above Findings of Fact. Those facts, in turn, lead to the conclusion that Ms. Godbolt has violated the licensing law in the respects claimed by the complainant.

The primary issue to be considered here is the appropriate discipline, if any, to be imposed against Ms. Godbolt. In this regard it must be recognized that the interrelated purposes for applying disciplinary measures are: 1) to promote the rehabilitation of the licensee, 2) to protect the public, and 3) to deter other licensees from engaging in similar misconduct. *State v. Aldrich*,

71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. MacIntyre*, 41 Wis. 2d 481, 485 (1969).

That discipline must be imposed is clear. Ms. Godbolt's actions involved routinely and intentionally administering an amount of a schedule II controlled substance which deviated from that ordered for patients who were attempting to cope with heroin addiction. These actions where taken for the purpose of "balancing the books" at the end of the day regarding the usage of methadone. The willingness to disregard the health, safety and welfare of patients attempting to deal with heroin addiction -- in this case for administrative convenience -- requires discipline. It is compelled by the responsibility to both assure that Ms. Godbolt does not engage in such conduct again in the future, and to deter other licensees from succumbing to any temptation of engaging in similar activities.

The determination of the precise discipline to be imposed, on the other hand, is more difficult. It is complicated by the fact Ms. Godbolt did not participate in this proceeding either by written response or testimony. Complainant's attorney recognized this factor at the hearing, and although he did not express a specific recommendation on behalf of the state, he did submit documentation regarding an offered stipulation previously made to Ms. Godbolt through her attorney, but to which there had been no response. (Exhibit #2). This exhibit was received solely for the purpose of providing whatever assistance it might be in reaching an appropriate disciplinary determination under the circumstances of Ms. Godbolt's non-participation in the hearing. Generally stated, the document offered to resolve this matter through the placement of limitations upon Ms. Godbolt's license, the most significant of which being that her employer could require that she undergo drug screens for controlled substances, if deemed warranted, and that her employer provide quarterly reports to the board regarding Ms. Godbolt's work performance.

One may only speculate as to the precise circumstances which led Ms. Godbolt to engage in the misconduct and the extent to which there may or may not be either mitigating or aggravating factors relevant to the disciplinary determination. The failure of Ms. Godbolt to participate in this matter leaves the record relatively barren of such information. However, her non-participation certainly does not diminish the seriousness of intentionally administering incorrect dosages of a schedule II controlled substance. In fact, it raises the specter of a possible unwillingness or inability to recognize the board's authority and responsibility in this case, and brings into question the likelihood of compliance with any limitations the board might place upon her license.

Accordingly, in my opinion, it is not possible to structure specific limitations upon her license with any reasonable assurance that they would be appropriately responsive to the circumstances of this case or would be adequate to deter Ms. Godbolt from future misconduct.

Other disciplinary options available to the board include a reprimand, revocation or suspension. A reprimand constitutes a "public warning" to a licensee, and does not result in any limitation upon the continuing right to practice. See, sec. 440.01(1)(e), Stats. A mere warning of Ms. Godbolt against engaging in future misconduct is not adequate.

A revocation exists at the opposite end of the disciplinary spectrum from a reprimand, constituting a complete and absolute termination of the right to practice. See, sec. 440.01(1)(f), Stats. Additionally, pursuant to sec. 441.07(2), Stats., of the board's statutes, a revoked license may be reinstated no earlier than one year after the revocation. The imposition of a revocation in this case, then, would result in Ms. Godbolt not being permitted to practice for a mandatory period of *at least* one year. It is not recommended that the board exercise its ultimate and most severe disciplinary measure in this case. Just as there is an absence of mitigating evidence justifying a mild sanction, such as a reprimand, there is concurrently a lack of established aggravating factors (e.g., actual patient harm, drug diversion for street sale, etc.) as would warrant or necessitate a draconian approach.

The recommendation is that the license of Ms. Godbolt to practice as a practical nurse be suspended for an indefinite period of time. It is made in recognition of the fact that the possession of a professional license is a representation to the public by the board that the licensee is competent, and may be trusted, to provide services consistent with the public's health, safety and welfare. Cf., *Strigenz v. Department of Regulation and Licensing*, 103 Wis. 2d 281, 287 (1981). That representation cannot be made with reasonable certainty in this case through the imposition of a reprimand or practice limitations.

In my opinion, an indefinite suspension is the only discipline which provides the board with the ability to assure the public that Ms. Godbolt is fit to practice as a practical nurse in the future. An appropriate flexibility is achieved, in that the actual length of the suspension is largely dependent upon Ms. Godbolt and her willingness and ability to establish to the satisfaction of the board her fitness to practice. The suspension could be of very short duration, perhaps not even becoming effective, dependent upon Ms. Godbolt's response to the board's decision; or it could extend for a very long time if Ms. Godbolt chooses not to respond.

Furthermore, the recommended order provides the board with the additional ability to impose appropriate terms and conditions consistent with the actual circumstances underlying the misconduct, upon any future reinstatement of Ms. Godbolt's license.

Dated this 19th day of September, 1994.

Respectfully submitted,

Donald R. Rittel
Administrative Law Judge

alj\propdec\godbolt

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.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN BOARD OF NURSING
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708.

The Date of Mailing this Decision is:

NOVEMBER 8, 1994.

1. 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 sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

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

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision 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.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST JULIA M. GODBOLT, L.P.N., RESPONDENT.	: : : : :	AFFIDAVIT OF COSTS OF OFFICE OF BOARD LEGAL SERVICES (Case No. LS9407291NUR)

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Donald R. Rittel, being first duly sworn on oath, deposes and states as follows:

1. Your affiant is an attorney licensed to practice law in the state of Wisconsin, and is employed by the Wisconsin Department of Regulation and Licensing, Office of Board Legal Services.

2. In the course of his employment, your affiant was assigned as the administrative law judge in the above-captioned matter.

3. Set out below are the actual costs of this proceeding for the Office of Board Legal Services in this matter:

ADMINISTRATIVE LAW JUDGE EXPENSE
Donald R. Rittel

DATE	ACTIVITY	TIME SPENT
9/15/94	Conducting Hearing	0.25 hours
9/16/94	Preparing Proposed Decision	3.00 hours
11/1/93	Preparing Letter to Attorney Woehrer	.25 hours
	TOTAL TIME SPENT	3.25 hours

Total administrative law judge expense for Donald R. Rittel,
3.25 hours @ $ 43.814 per hour, salary and benefits: $ 142.39

TOTAL ASSESSABLE COSTS FOR OFFICE OF BOARD LEGAL SERVICES **$ 142.39**

Donald R. Rittel
Administrative Law Judge

Sworn to and subscribed before me
this 19th day of September, 1994.

Notary Public, State of Wisconsin
My Commission is Permanent

alj\costs\godbolt

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST JULIA M. GODBOLT, L.P.N., RESPONDENT	: : : : :	AFFIDAVIT OF COSTS 94 NUR 043

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Steven M. Gloe, being duly sworn, deposes and states as follows:

1. That I am an attorney licensed in the state of Wisconsin and am employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement:

2. That in the course of those duties I was assigned as a prosecutor in the above-captioned matter; and

3. That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

PROSECUTING ATTORNEY EXPENSE

Date	Activity	Time Spent
04/21/94	Review file; draft subpoena	45 min.
05/05/94	Attend witness interview in Milwaukee	4 hours
05/11/94	Draft stipulation and correspondence	1 hour
07/12/94	Draft complaint and Notice of Hearing Schedule Hearing date	30 min.
09/01/94	Telephone conversations	30 min.
09/15/94	Hearing preparation and attend hearing	1 hour 30 min.
10/10/94	Review Objections to Proposed Decision and Draft Response	1 hour
TOTAL HOURS		9 hours 15 min.

Total attorney expense for
9 hours and 15 minutes at $30.00 per hour
(based upon average salary and benefits
for Division of Enforcement attorneys) equals: $ 277.50

INVESTIGATOR EXPENSE

Date	Activity	Time Spent
03/11/94	Initial review of case file	15 min.
03/11/94	Case conference	15 min.
TOTAL HOURS		30 min.

Total investigator expense for
30 minutes at $18.00 per hour
(based upon average salary and benefits
for Division of Enforcement investigators) equals: $ 9.00

TOTAL ASSESSABLE COSTS **$ 286.50**

Steven M. Gloe
Attorney
Division of Enforcement

Subscribed and sworn to before me this 16th day of December, 1995.

Notary Public
My Commission is permanent.