

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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FILE COPY

Sept.
1981

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARY E. JENSEN, T.P.N.,
RESPONDENT

:
:
:
:
:
FINAL DECISION
AND ORDER

ORDER 0001619

The State of Wisconsin, Board of Nursing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Hearing Examiner, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Hearing Examiner, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, In the Matter of the Disciplinary Proceedings Against Mary E. Jensen, T.P.N. Let a copy of this order be served on the respondent by certified mail.

Dated this 6 day of March, 1981.

Marjorie Lundquist

017-552

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

MARY E. JENSEN, T.P.N., :
RESPONDENT. :

PROPOSED DECISION

A prehearing conference was held in the above-captioned matter on February 3, 1981 commencing at 9:00 a.m. in Room 288A, 1400 East Washington Avenue, Madison, Wisconsin. Appearing at the conference were Howard C. Johnson, attorney for respondent, and Wayne R. Austin, attorney for complainant.

The purpose of the conference was to discuss further proceedings in this matter pursuant to the Board of Nursing, by letter under date of January 23, 1981, having rejected the Stipulation between the parties as incorporated within the Proposed Decision of the Hearing Examiner under date of December 18, 1980. At the conference, the parties reached agreement upon all issues in this proceeding. A stipulation setting forth the agreed terms of settlement was contained in a letter under date of February 9, 1981 to the Hearing Examiner. A copy of the stipulation is attached hereto.

Based on the pleadings and stipulation on file herein, the following Findings of Fact, Conclusions of Law, and Order, should be adopted by the Board of Nursing if it accepts the stipulation:

FINDINGS OF FACT

1. Mary E. Jensen (Jensen) was, at all times relevant to this proceeding, duly licensed under the provisions of Chapter 441, Wis. Stats., to practice as a Trained Practical Nurse in the State of Wisconsin (License Number TPN 12960, issued December 28, 1972).
2. Jensen's address is 4627 Yahara Drive, McFarland, Wisconsin 53558.
3. At all times relevant to this proceeding, Jensen was employed as a Trained Practical Nurse at Wildwood Family Clinic (Clinic), 4901 Cottage Grove Road, Madison, Wisconsin 53716.
4. At various times during the period beginning in July, 1979 and ending on or about August 13, 1979, Jensen did, while on duty at the Clinic, procure and possess certain controlled substances and prescription drugs for her own consumption and use. Said controlled substances were identified as Nisentil, a/k/a alphaprodine hydrochloride, a Schedule II substance (approximately 8 ampules); Stadol, a/k/a butorphanol tartrate, a prescription drug (one 10 ml. vial); Demerol, a/k/a meperidine hydrochloride, a Schedule II substance (approximately 2 tubexes); Librium Injectable, a/k/a chlordiazepoxide hydrochloride, a Schedule IV substance (one ampule); and Tylenol #3, a/k/a acetaminophen w/codeine, a Schedule III substance. Said controlled

substances and prescription drugs were not procured or possessed pursuant to the valid prescription of a practitioner.

5. Jensen did not consume any controlled substance while on duty as a trained practical nurse.

6. No patient was deprived, or in danger of being deprived, of medication as a result of Jensen's actions.

7. Jensen voluntarily enrolled in the Alcoholism Program and Education Center (APEC) program at Madison General Hospital and successfully completed that program. A letter dated October 28, 1980 from Patricia A. Grassy, Family Service Counselor, setting forth Jensen's participation in the APEC Program, is attached and made a part hereof.

8. Jensen was permitted to return to her employment with Wildwood Family Clinic and practiced successfully thereafter until her voluntary resignation in February, 1980. A letter dated October 27, 1980, from Paul A. Wertsch, M.D., setting forth Jensen's reemployment is attached and made a part hereof.

9. Jensen is not presently practicing as a trained practical nurse.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in the proceeding pursuant to sec. 227.07(5), Wis. Stats., and Chapter 441, Wis. Stats.

2. The procurement and possession of controlled substances and prescription drugs, other than pursuant to the valid prescription of a practitioner, as found in paragraph 4 of the Findings of Fact, constitute grounds for imposition of the sanctions provided for in sec. 441.07, Wis. Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Mary E. Jensen to practice as a trained practical nurse be, and hereby is, suspended for thirty (30) days, said suspension to commence the day following the date of the Final Decision and Order rendered by the Board of Nursing.

It is further ordered that the license of Mary E. Jensen to practice as a trained practical nurse be, and hereby is, limited in the following manner:

1. As a condition to re-enter practice, Jensen shall submit to the Board a medical report prepared by a physician or a psychiatrist following an examination which indicates that Jensen has no health problems which would impair her ability to safely practice practical nursing.

2. At such time as Jensen returns to the practice of nursing, she shall notify the Board of Nursing of that fact. Such notification shall identify her employer and explain her general duties and

responsibilities. Three months after such notification, Jensen or her employer shall submit to the Board a report prepared by the employer providing an evaluation of her performance as a trained practical nurse during the period of limitation.

3. If the information in paragraphs 1 or 2 above indicates Jensen is not a safe practitioner, or has returned to the use of mindaltering drugs, Jensen is subject to further discipline by the Board.

In the event that the Board of Nursing does not accept this proposed decision as its final decision in this matter, the matter shall be returned to the Hearing Examiner for further proceedings with an explanation from the Board as to why the proposed decision was not approved.

Dated at Madison, Wisconsin this 18th day of February, 1981.

Respectfully submitted,

Donald R. Rittel

Donald R. Rittel
Hearing Examiner



State of Wisconsin \

DEPARTMENT OF REGULATION & LICENSING

Lee Sherman Dreyfus
Governor

Ann Jansen Haney
Secretary

February 9, 1981

1400 E. WASHINGTON AVENUE
MADISON, WISCONSIN 53702
(Enter at 77 North Dickinson Street)

Donald R. Rittel, Esq.
Designated Hearing Examiner
Room 286A
1400 East Washington Avenue
Madison, Wisconsin 53702

Re: In the matter of disciplinary proceedings against Mary E.
Jensen, T.P.N.

Dear Mr. Rittel:

As a consequence of the rejection by the Board of Nursing of the stipulated and proposed order entered in the above referenced matter, and pursuant to subsequent discussions taking place at the conference conducted in your office on February 13, the signatories hereto, in consideration and upon condition of acceptance of the following agreement by the Board of Nursing, hereby stipulate to the adoption by the Board of an order as follows:

Now, therefore, it is ordered that the license of Mary E. Jensen to practice as a trained practical nurse be, and hereby is, suspended for thirty days.

It is further ordered that the license of Mary E. Jensen to practice as a trained practical nurse be, and hereby is, limited in the following manner:

1. As a condition to re-enter practice, the respondent shall submit to the Board a medical report prepared by a physician or a psychiatrist following an examination which indicates that the respondent has no health problems which would impair her ability to safely practice practical nursing.
2. At such time as Jensen returns to the practice of nursing, she shall notify the Board of Nursing of that fact. Such notification shall identify her employer and explain her general duties and responsibilities. Three months after such notification, respondent or her employer shall submit to the Board a report prepared by the employer providing an evaluation of her performance as a trained practical nurse during the period of limitation.
3. If the information in paragraphs 1 or 2 above indicates the respondent is not a safe practitioner, or has returned to the use of mind-altering drugs, the respondent is subject to further discipline by the Board.

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Dept. of Regulation & Licensing
Div. of Consumer Complaints

The signatories hereto also agree to waive all objections to the hearing examiner's proposed order, as provided by Section RL2.10(3), Wis. Admin. Code.

The undersigned would have the following comments on the Board's modification of the stipulated/proposed order in this matter.

Appropriate discipline to be imposed in a licensing proceeding like this one should be determined only after consideration of a number of relevant factors. These include, though not necessarily in the order of their importance: (1) the nature of the misconduct charged and its demonstrated or potential harm to the public health, safety and welfare; (2) mitigation, including circumstances giving rise to the misconduct, rehabilitative efforts undertaken by the respondent, respondent's current demonstrated ability to safely practice as a nurse, and respondent's cooperation in procedures initiated before the Board; and (3) precedent established by the Board in previous similar disciplinary proceedings.

In arriving at the stipulated order in this case, the parties were mindful of all these factors. As to potential for harm, the Board, in its letter of January 23, 1981, stated that "based on the facts agreed to for the purposes of the stipulation . . . the seriousness of the respondent's actions, which had the strong potential for altering her judgments and harming patients, warranted a stronger form of discipline than proposed in the stipulation." The parties agree that if the facts showed that respondent had consumed controlled substances while practicing or that she deprived patients of medication by her actions, then there would be strong potential for altered judgment and patient harm. In fact, the stipulated findings, which are fully supported by the evidence, are exactly opposite and lead logically to the conclusion that there was little potential for altered judgment or patient harm.

In terms of mitigation, the Board of Nursing, on March 20, 1980, adopted a procedure for impaired nurse complaints which cites a number of mitigating factors to be considered in determining discipline:

"a. Voluntary enrollment in an inpatient or outpatient treatment for drug or alcohol abuse or emotional disorder.

"b. Rehabilitation, as evidenced by factors described in paragraph 5, above," (Paragraph 5 cites medical reports, therapists' reports and personal and professional references attesting to rehabilitation).

"c. positive work performance evaluations:

"1. reports from employers or supervisors describing respondent's performance in carrying out nursing duties prior to time of violation.

"2. reports from any employer or supervisor describing respondent's current demonstrated ability to safely carry out nursing duties."

The stipulation establishes that (a) respondent voluntarily enrolled in a treatment program; (b) her therapist and employer have both attested to her rehabilitation; and (c) a report from her employer establishes

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that she was re-employed by the same facility at which she had been employed prior to the incident and that her work has been uniformly satisfactory. It is suggested that mitigating factors demonstrated are in substantial accordance with all those the Board has stated it will consider. Additionally, there is one other area of mitigation which should be considered relevant to this case. When a proceeding is resolved by stipulation rather than through the hearing process, a number of benefits accrue to the public and the profession thereby. The considerable time and expense of the hearing process is saved, thus contributing directly to the expeditious resolution of a significantly greater number of disciplinary cases. The respondent, on the other hand, while avoiding the (possible) expense of a hearing, also waives his or her right to require the licensing agency to prove by clear and convincing evidence the existence of the violation. The quid pro quo for that waiver is, and always has been, a lesser rather than a greater appropriate discipline. The qualifying word "appropriate" is obviously important. No one is suggesting that a stipulated discipline should be imposed which is grossly disproportionate to the perceived seriousness of the misconduct alleged. However, the discipline which should be imposed in a particular factual situation cannot be determined with mathematical precision. If it could, the specific discipline to be imposed for a particular violation could be established by code or statute. A certain amount of discretion is necessary in fashioning an appropriate discipline and that principle necessarily subsumes the concept of a range of appropriate disciplines. Again, the quid pro quo for a stipulated disposition is a lesser rather than a greater appropriate discipline.

Finally, we may consider the question of historical board precedent applicable to this case. In the most recent similar case, a proceeding involving Mary Egan, R.N., the Board found that respondent had procured from her place of employment and self-administered controlled substances including Demerol. On July 21, 1980, the Board ordered Egan's license limited for one year.

On February 2, 1980, the Board found respondent Paula Vienneau's history evinced excessive use of medications or drug addiction. Based upon the parallel finding of rehabilitation, the Board granted her license without limitation.

In the case of Jenny Schumacher, R.N., respondent's license was suspended for three months. The findings reflected, however, that there was an impairment in her practice resulting from her diversion and that rehabilitation, if any, was not complete.

In the proceeding involving Linda Gehring, R.N., the Board found on January 18, 1979, that respondent had regularly diverted and self-administered Demerol over a two-month period. The parties stipulated to a 60-day suspension, however the order was imposed retroactively so as to coincide with respondent's hospitalization for a non-related ailment.

In the Robert Onsgard case in September, 1979, the parties stipulated that Onsgard had diverted controlled substances and agreed to a 60-day suspension. The Board modified the order and made the suspension retro-active to a prior period when respondent had not been employed.

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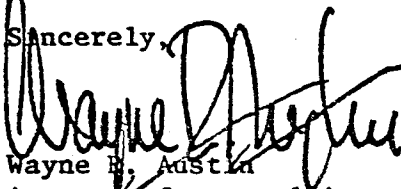
On November 7, 1978, the Board ordered the license of Sharon Statz suspended for six months. In that case, however, respondent's theft of Tylenol with Codeine from particular patients was accompanied by her replacement of the controlled substance with plain Tylenol, thus depriving patients of their prescribed medications.

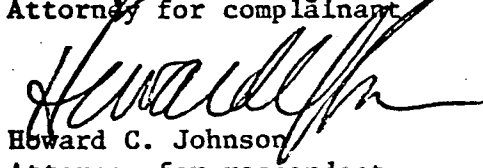
In the Alice Drover, T.P.N., case, the Board found respondent had diverted approximately 1,000 ampules of Demerol. The Board accepted the proposed six-month suspension, but placed a limitation upon the return of her license based upon the fact that there was no evidence of rehabilitation.

On July 25, 1978, the Board found that respondent Glen Helen Mueller had diverted Demerol and morphine over a period of several years and had been addicted to Demerol. They modified the 90-day suspension proposed by the hearing examiner to make it retroactive.

It is suggested that little guidance can be gleaned from the foregoing in terms of fashioning an appropriate remedy in the present proceeding. But if these prior board decisions do not establish any clear precedent directly applicable to this case, the Board's action in modifying this proposed order probably does create such a clear precedent. It is our opinion that imposition of a period of suspension in this case clearly establishes the principle that in Wisconsin, any diversion of controlled substances by a nurse licensee for his or her own use will now automatically be considered as cause for suspension--regardless of the circumstances, regardless of lack of demonstrated or potential patient harm, regardless of the fact that minimal quantity of medication may have been diverted, regardless of mitigation and rehabilitation, and regardless of the respondent's willingness to forthrightly confront the situation and fully cooperate in the Board's disciplinary proceedings. If that is the Board's intent, then this case will provide valuable guidance in the handling and resolution of future similar cases. On the other hand, the principle thus enunciated will surely not serve to persuade impaired nurses that there is any advantage to be gained in cooperating in the resolution of complaints arising from their actions.

Sincerely,


Wayne B. Austin
Attorney for complainant


Howard C. Johnson
Attorney for respondent

WRA/H CJ:bjs
362-576

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Dept. of Regulation & Licensing
Div. of Consumer Complaints

SCHNEIDER LAW OFFICE

5906 MAIN STREET
P.O. BOX 3
McFARLAND, WISCONSIN 53558

TELEPHONE: McFARLAND 838-4364
OR
MADISON 255-4396
AREA CODE: 608

Lloyd A. Schneider
Howard C. Johnson
Michael M. Cassidy
James A. Schneider,
of Counsel

February 12, 1981

Attorney Wayne R. Austin
State of Wisconsin
Department of Regulation and Licensing
1400 E. Washington Avenue
Madison, Wisconsin 53702

Re: In the matter of Disciplinary Proceedings
against Mary E. Jensen

Dear Mr. Austin:

Enclosed please find original letter dated February 9, 1981, being returned to you as per your request. I have discussed the contents with my client and the terms are acceptable under the circumstances.

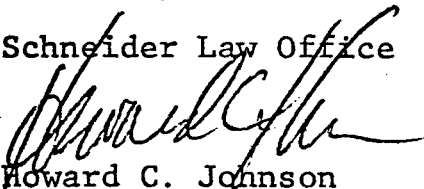
She has some concerns and questions. Regarding requirement number 2 of the limitations on her license, namely, the requirement relating to notification of the board by her employer upon re-entering practice evaluating her performance, is there a time limitation upon which that limitation shall expire?

For instance, assume that Mary E. Jensen does not return to practice for an extended period of time. Will it still be necessary for her to follow all limitations? If not, what is the time limitation upon which such limitations shall expire? Please advise.

My client and I appreciate the cooperation and consideration which your offices have extended. It is heartening to know that even though your workload has to be extremely heavy, you still take the time to consider the equities of all cases on an individual basis.

Sincerely yours,

Schneider Law Office


Howard C. Johnson

HCJ/nw

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FEB 13 1981

Dept. of Regulation & Licensing
Div. of Consumer Complaints

2 FILED
2/16/81
Dept. of Reg. & Lic.
Hearing Examiner

WILDWOOD FAMILY CLINIC
4901 Cottage Grove Road
Madison, Wisconsin 53716
Telephone: 608/221-1501

P. A. WERTSCH
K. A. HEGGESTAD

October 27, 1980

D. J. BARRY
C. S. BRUCE

State Board of Nursing
1400 E. Washington Ave.
Madison, WI 53704

RE: Mary E. Jensen

Mrs. Jensen asked that I write a letter describing her employment with us following her episode of drug abuse.

After her brief hospitalization and outpatient program with the APEC program at Madison General Hospital, she returned to full-time duties as a L.P.N. at the Wildwood Family Clinic. Her work was satisfactory and she was honest with the other employees about her previous problem. Mary worked with us until February 2, 1980, at which time she resigned because of personnel reasons. She has offered to repay us for the drugs that she used, but I have told her that this was not necessary. .

Sincerely,


Paul A. Wertsch, M.D.

PAW/ame

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Dept. of Regulation & Licensing
Div. of Consumer Protection

44

October 28, 1980

Board of Nursing
1400 E. Washington Ave.
Madison, WI 53702

Re: Mary Jensen, D.O.B. 5/16/52

TO WHOM IT MAY CONCERN:

Mary Jensen voluntarily sought help here on August 28, 1979. Ms. Jensen had abused drugs for a period of about one month prior to coming here for an assessment and treatment. We assessed her abuse as being related to the fact that she was suffering from depression and anxiety.

Ms. Jensen was involved in individual counseling and group counseling from August 28, 1979 until January 28, 1980. We continued to assess her drug usage while she was involved in treatment here and we did not believe that she was addicted to chemicals. She did not abuse drugs while she was involved in treatment here. Ms. Jensen complied with our treatment recommendations and focused on improving her self-esteem and her relationship with her husband.

When Ms. Jensen completed treatment it was our opinion that she had learned a painful lesson. It was also our opinion that Ms. Jensen could return to the practice of nursing without further problems of abusing drugs.

I hope the information above is helpful to you. If I can be of any further assistance, please feel free to call me at 267-6510.

Sincerely,

Patricia A. Grassy

Patricia A. Grassy, M.S.S.W.
Family Service Counselor

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Dept. of Professional Licensing

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARY E. JENSEN, T.P.N.,
RESPONDENT.

PROPOSED DECISION

A prehearing conference was held in the above-captioned matter on September 26, 1980 commencing at 9:30 a.m. in Room 288A, 1400 East Washington Avenue, Madison, Wisconsin. Appearing at the conference were the respondent, Mary E. Jensen, respondent's attorney, Michael M. Cassidy, and Wayne R. Austin, attorney for the complainant.

The parties reached tentative agreement as to the factual issues in this matter at the prehearing conference, and agreed to continue discussions concerning a resolution of all issues in this proceeding.

The examiner has received a stipulation executed by the parties setting forth the terms of the proposed settlement. A copy of the stipulation is attached hereto.

Based on the pleadings and stipulation on file herein, the examiner recommends that the Board of Nursing adopt as its final decision in the case the following Findings of Fact, Conclusions of Law, and Order, which are the terms agreed upon and stipulated to by the parties.

FINDINGS OF FACT

1. Mary E. Jensen (Jensen) was, at all times relevant to this proceeding, duly licensed under the provisions of Chapter 441, Wis. Stats., to practice as a Trained Practical Nurse in the State of Wisconsin (License Number TPN 12960, issued December 28, 1972).
2. Jensen's address is 4627 Yahara Drive, McFarland, Wisconsin 53558.
3. At all times relevant to this proceeding, Jensen was employed as a Trained Practical Nurse at Wildwood Family Clinic (Clinic), 4901 Cottage Grove Road, Madison, Wisconsin 53716.
4. At various times during the period beginning in July, 1979 and ending on or about August 13, 1979, Jensen did, while on duty at the Clinic, procure and possess certain controlled substances and prescription drugs for her own consumption and use. Said controlled substances are identified as Nisentil, a/k/a alphaprodine hydrochloride, a Schedule II substance (approximately 8 ampules); Stadol, a/k/a butorphanol tartrate, a prescription drug (one 10 ml. vial); Demerol, a/k/a meperidine hydrochloride, a Schedule II substance (approximately 2 tubexes); Librium Injectable, a/k/a chlordiazepoxide hydrochloride, a Schedule IV substance (one ampule); and Tylenol #3, a/k/a

acetaminophen w/codeine, a Schedule III substance. Said controlled substances and prescription drugs were not procured or possessed pursuant to the valid prescription of a practitioner.

5. Jensen did not consume any controlled substance while on duty as a trained practical nurse.

6. No patient was deprived, or was in danger of being deprived, of medication as a result of Jensen's actions.

7. Jensen voluntarily enrolled in the Alcoholism Program and Education Center (APEC) program at Madison General Hospital and successfully completed that program. A letter dated October 28, 1980 from Patricia A. Grassy, Family Service Counselor, setting forth Jensen's participation in the APEC Program, is attached and made a part hereof.

8. Jensen was permitted to return to her employment with Wildwood Family Clinic and practiced successfully thereafter until her voluntary resignation in February, 1980. A letter dated October 27, 1980, from Paul A. Wertsch, M.D., setting forth Jensen's reemployment is attached and made a part hereof.

9. Jensen is not presently practicing as a trained practical nurse.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in the proceeding pursuant to sec. 227.07(5), Wis. Stats., and Chapter 441, Wis. Stats.

2. The procurement and possession of controlled substances and prescription drugs, other than pursuant to the valid prescription of a practitioner, as found in paragraph 4 of the Findings of Fact, constitutes grounds for imposition of the sanctions provided for in sec. 441.07, Wis. Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that Mary E. Jensen be, and hereby is, formally reprimanded and that her license to practice as a trained practical nurse be, and hereby is, limited in the following manner:

1. At such time as Jensen returns to the practice of nursing, she shall notify the Board of Nursing of that fact. Such notification shall identify her employer and explain her general duties and responsibilities.
2. Within 30 days following her reemployment as a trained practical nurse, Jensen shall submit to the Board a medical report prepared by a physician or psychiatrist following an examination and evaluation of her ability to safely practice nursing.

In the event that the Board of Nursing does not accept this proposed decision as its final decision in this matter, the matter shall be returned to the examiner for further proceedings with an explanation from the Board as to why the proposed decision was not approved.

Dated at Madison, Wisconsin this 18th day of December, 1980.

Respectfully submitted,


Donald R. Rittel
Examiner

6460

BEFORE THE STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
:

MARY E. JENSEN, T.P.N., :
RESPONDENT :

STIPULATION

On August 28, 1980, a complaint was filed in the above-entitled matter, the gravamen of which was that the respondent, Mary E. Jensen, had, during an approximately one month period in 1979, procured certain controlled substances from her place of employment, the Wildwood Family Clinic in Madison, for her own consumption and use.

On the same date the complaint was filed, a hearing was ordered pursuant to Chapter 441, Wis. Stats., and Chapter RL 2, Wis. Adm. Code, for the purpose of considering the allegations of the complaint. Thereafter, on September 19, 1980, Attorney Donald R. Rittel, designated hearing examiner, adjourned the hearing previously scheduled and requested the parties to appear at a prehearing conference to be held on September 26, 1980. On that date, complainant Kristine Raymond appeared by her attorney, Wayne R. Austin and respondent appeared in person and by her attorney, Michael M. Cassidy. As a result of discussions taking place both at that conference and subsequent thereto, the named parties reached agreement on disposition of the matter, which agreement is intended as a full disposition of all complaints presently pending against the respondent and is further intended as a recommended basis for the final decision of the Board of Nursing.

ACCORDINGLY, Kristine Raymond, by her attorney, and Mary E. Jensen, by herself and her attorney, in consideration of the terms and conditions of this stipulation and in consideration and upon condition of acceptance of the terms and conditions of this stipulation by the Board of Nursing, do hereby stipulate:

1. That respondent freely and voluntarily waives her right to a public hearing in this cause.
2. That respondent was, at all times relevant to the complaint filed in this matter, duly licensed under the provisions of Chapter 441, Stats., to practice as a trained practical nurse in the State of Wisconsin.
3. That respondent's address is 4627 Yahara Drive, McFarland, Wisconsin 53558.
4. That respondent does not admit the material factual allegations of the complaint filed in this matter, but chooses not to deny or to defend against them.

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5. That based upon respondent's failure to deny the material factual allegations of the complaint, the parties agree to the adoption by the Board of Nursing of findings of fact not inconsistent with said allegations.

6. That the parties agree to the adoption by the Board of Nursing of conclusions of law as follows:

That the procurement and possession of controlled substances and prescription drugs, other than pursuant to the valid prescription of a practitioner, as found in paragraph ___, above, constitutes grounds for imposition of the sanctions provided for in sec. 441.07, Stats.

7. That the parties agree that the following mitigating factors exist:

(a) Respondent did not consume any controlled substance while on duty as a trained practical nurse.

(b) No patient was deprived, or was in danger of being deprived, of medication as a result of respondent's actions.

(c) Respondent voluntarily enrolled in the Alcoholism Program and Education Center (APEC) program at Madison General Hospital and successfully completed that program. A letter dated October 28, 1980 from Patricia A. Grassy, Family Service Counselor, setting forth respondent's participation in the APEC Program, is attached and made a part hereof.

(d) Respondent was permitted to return to her employment with Wildwood Family Clinic and practiced successfully thereafter until her voluntary resignation in February, 1980. A letter dated October 27, 1980, from Paul A. Wertsch, M.D., setting forth respondent's reemployment is attached and made a part hereof.

8. That respondent is not presently practicing as a trained practical nurse.

9. That the parties agree to the adoption by the Board of Nursing of an order as follows:

(a) That the respondent be, and hereby is, formally reprimanded.

(b) That respondent's license to practice as a trained practical nurse be, and hereby is, limited in the following manner:

1. At such time as respondent returns to the practice of nursing, she shall notify the Board of Nursing of that fact. Such notification shall identify her employer and explain her general duties and responsibilities.

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2. Within 30 days following her reemployment as a trained practical nurse, respondent shall submit to the Board a medical report prepared by a physician or psychiatrist following an examination and providing an evaluation of her ability to safely practice nursing.

Mary E. Jensen T.P.N.
Mary E. Jensen, T.P.N.

Michael M. Cassidy
Michael M. Cassidy
Attorney for Respondent

Wayne R. Austin
Wayne R. Austin
Attorney for Complainant

5279

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Dept. of Regulation & Licensing
Div. of Consumer Complaints

WILDWOOD FAMILY CLINIC

4901 Cottage Grove Road
Madison, Wisconsin 53716
Telephone: 608/221-1501

P. A. WERTSCH
K. A. HEGGESTAD

October 27, 1980

D. J. BARRY
C. S. BRUCE

State Board of Nursing
1400 E. Washington Ave.
Madison, WI 53704

RE: Mary E. Jensen

Mrs. Jensen asked that I write a letter describing her employment with us following her episode of drug abuse.

After her brief hospitalization and outpatient program with the APEC program at Madison General Hospital, she returned to full-time duties as a L.P.N. at the Wildwood Family Clinic. Her work was satisfactory and she was honest with the other employees about her previous problem. Mary worked with us until February 2, 1980, at which time she resigned because of personnel reasons. She has offered to repay us for the drugs that she used, but I have told her that this was not necessary.

Sincerely,



Paul A. Wertsch, M.D.

PAW/ame

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Div. of Consumer Complaints