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Dept.
1981

FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

BEVERLY J. FRANKE, R.N.,
RESPONDENT

:
:
:
:
:
:
FINAL DECISION
AND ORDER

ORDER 0001732

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, Board of Nursing. Let a copy of this order be served on the respondent by certified mail.

Dated this 20th day of July, 1981.

Marjorie Lundquist RN

017-552

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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

PROPOSED DECISION

BEVERLY J. FRANKE, R.N., :
RESPONDENT. :

A Complaint was filed in the above-captioned matter on October 14, 1980. An Answer was filed on behalf of Respondent on October 31, 1980. A prehearing conference was held on December 9, 1980 at which time counsel for the parties discussed various alternatives for reaching an agreement which would resolve all matters at issue in this proceeding. On May 19, 1981, a Stipulation was filed which contained terms agreed upon between the parties for disposition of this matter. A copy of the Stipulation is attached hereto.

Based upon the Stipulation on file herein, the Hearing 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. Beverly J. Franke a/k/a Beverly J. Smith (Franke) was, at all times relevant to the Complaint filed in this matter, duly registered under the provisions of Ch. 441, Wis. Stats., to practice as a registered nurse in the State of Wisconsin (certification number 58277, issued September 21, 1973).
2. Franke's address is N29 W24 650 Hwy. SS, Pewaukee, Wisconsin 53702.
3. On or about October 1, 1976, at 9135 West Silver Spring Road, Milwaukee, Wisconsin, Franke delivered to one Thomas Walkner, an undercover agent for the State of Wisconsin Department of Justice, somewhat less than three grams of heroin, a Schedule I controlled substance. Franke received \$235.00 in payment therefor.
4. On or about October 12, 1976, at 9135 West Silver Spring Road, Milwaukee, Wisconsin, Franke again delivered to Thomas Walkner somewhat less than three grams of heroin, and received \$250.00 in payment therefor.
5. Franke's actions, as found in paragraphs 3 and 4 above, were undertaken neither for personal gain nor as a result of any personal drug addiction, but rather were undertaken in an effort to assuage the symptoms of heroin addiction suffered by her former husband, a dying paraplegic.
6. Based upon the foregoing facts, Franke was, on August 31, 1978, adjudged guilty of two counts of possession of a controlled substance in violation of sec. 161.41, Wis. Stats. She was placed on probation for a period of four years and ordered to enroll in a drug surveillance program.

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7. Franke has fulfilled the conditions of her probation without exception and her supervision has been reduced to one visit with her probation officer each three months. A copy of a letter documenting the foregoing from Mr. Lee F. Smith, State Probation and Parole Officer, is attached hereto and made a part hereof.

8. Other than the conviction described in paragraph 6 above, Franke has never been arrested and/or convicted for any violation of any law of the State of Wisconsin.

9. On March 5, 1979, Franke was employed by Northwest General Hospital, Milwaukee, Wisconsin, to practice as a registered nurse and has practiced successfully at Northwest General since that date. Copies of letters from Virginia M. Marson, R.N., Laurie A. Goetsch, R.N., and Cynthia Wolfgram, R.N., describing the unquestioned quality of Franke's nursing practice both before and after the incident complained of are attached hereto and made a part hereof.

CONCLUSIONS OF LAW

1. The State of Wisconsin Board of Nursing has jurisdiction to take disciplinary action in this proceeding pursuant to section 227.07(5), Wis. Stats.

2. Delivery of a Class I controlled substance is prohibited by sec. 161.41(1), Wis. Stats., and constitutes unprofessional conduct for the purposes of sec. 441.07, Wis. Stats.

3. Pursuant to sec. 441.07, Wis. Stats., unprofessional conduct constitutes grounds for limitation, suspension or revocation of Respondent's registration as a registered nurse or for reprimand by the Board of Nursing.

ORDER

IT IS HEREBY ORDERED that the registration of BEVERLY J. FRANKE to practice as a registered nurse shall be and hereby is SUSPENDED for a period of THIRTY DAYS.

In the event that the Board of Nursing does not accept the Stipulation, or the proposed decision as its final decision in this matter, the case shall be returned to the Hearing Examiner for further proceedings with a statement from the board as to why the Stipulation was not accepted and the proposed decision not adopted.

Dated at Madison, Wisconsin this 27th day of May, 1981.

Respectfully submitted,



Donald R. Rittel
Hearing Examiner