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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOANN H. TUCKER, L.P.N.,
RESPONDENT

FINAL DECISION
AND ORDER

ORDER 0001586

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 11 day of April, 1988

Mary Ann Dwyer

017-552

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

JOANN H. TUCKER, L.P.N., :
RESPONDENT. :

PROPOSED DECISION

The parties to this proceeding for the purposes of Wis. Stats.
sec. 227.16, are:

JoAnn H. Tucker
c/o Wisconsin Department of Health
and Social Services
Taycheedah Correctional Institution
P. O. Box 33
Taycheedah, Wisconsin 53090

Board of Nursing
1400 East Washington Avenue, Room 174
P. O. Box 8936
Madison, Wisconsin 53708

On November 20, 1981 a Stipulation in the above-captioned matter was filed with the Hearing Examiner. The Stipulation was executed by the respondent, JoAnn H. Tucker, and her attorneys Marney E. Corbin and Mary Stevens, as well as by complainant's attorney, Wayne R. Austin. 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. JoAnn H. Tucker (Tucker) was, at all times relevant to the complaint filed in this matter, licensed in Wisconsin to practice as a trained practical nurse (license #T5796, issued March 24, 1965).

2. Tucker is presently in the custody of the Wisconsin Department of Health and Social Services at Taycheedah Correctional Institution, Box 33, Taycheedah, Wisconsin 53090.

3. From on or about April 19, 1976, and until on or about July 21, 1980, Tucker was employed by and practiced as a trained practical nurse at Lakeland Nursing Home (nursing home), Elkhorn, Wisconsin 53121.

4. On seven occasions while an employe of the nursing home, Tucker set fires within the nursing home as follows:

- (a) On February 8, 1979, Tucker started a fire in a wastebasket in the front east basement employees' lounge.
 - (b) On February 9, 1979, Tucker set fire to a pile of cardboard boxes in the north basement area.
 - (c) On February 12, 1979, Tucker set a fire in a wastebasket in Room 507.
 - (d) On October 6, 1979, Tucket set a fire in a wastebasket in the west basement area.
 - (e) On October 6, 1979, Tucker set fire to a chair in the 3 East day room.
 - (f) On November 5, 1979, Tucker set a fire in the laundry room resulting in approximately \$3000 damage.
 - (g) On May 11, 1980, Tucket set a fire in the laundry room, which fire required the evacuation of approximately 35 elderly residents of the nursing home.
5. On October 6, 1979, and on May 16, 1980, while an employee of the nursing home, Tucker made telephonic bomb threats to the nursing home.
6. On October 6, 1980, Tucker was adjudged guilty of one count of arson and of one count of bomb scare and was sentenced to an indeterminate prison term of not more than five years and to a consecutive three-year term of probation.
7. Tucker's actions, as described in paragraphs 4 and 5, above, were psychologically rather than criminally motivated. A letter dated May 4, 1981, from Taycheedah chief psychologist Joy Anne Kenworthy, describing Tucker's symptomatology and treatment is 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. Tucker's actions in setting fires at and phoning bomb threats to the nursing home, as found in paragraphs 4 and 5, of the Findings of Fact, constitute mental incompetence and moral delinquency as defined by sections N 11.03(2) and (3), Wis. Adm. Code.
3. Pursuant to section 441.07, Wis. Stats., mental incompetence and moral delinquency constitute basis for revocation, limitation or suspension of respondent's license or for reprimand by the Board of Nursing.

ORDER

IT IS HEREBY ORDERED that the license of JoAnn H. Tucker to practice as a trained practical nurse in the State of Wisconsin be, and hereby is, suspended for the period of her present incarceration and for a period of at least six months thereafter. Six months after her release from incarceration, Tucker shall apply for reinstatement of her license and such application shall be granted upon submission to the Board of the following supplementary material.

1. A written report by a psychologist or psychiatrist reflecting that Tucker has, during the course of her suspension, participated in a regular course of psychiatric or psychological treatment and further reflecting that Tucker is, in the opinion of the treating psychiatrist or psychologist, emotionally capable of safely and successfully practicing as a practical nurse.

2. A written report from a social worker with the Racine County human services department reflecting that Tucker's social adjustment following incarceration has been satisfactory and that she has no family, marital or social difficulties which would prevent her from safely and successfully practicing as a practical nurse.

3. A written report from Tucker's probation and parole agent reflecting that Tucker is currently successfully fulfilling the terms of her probation and/or parole.

IT IS HEREBY FURTHER ORDERED that following reinstatement of the license of JoAnn H. Tucker to practice as a practical nurse, said license shall be limited for a period of one year as follows:

1. At the end of twelve months following reinstatement of her license, Tucker shall submit a written report prepared by a psychologist or psychiatrist reflecting that Tucker has, during the preceding twelve-month period, participated in a regular course of psychiatric or psychological treatment and further reflecting that Tucker continues to be, in the opinion of the treating psychiatrist or psychologist, emotionally capable of safely and successfully practicing as a practical nurse.

2. At the end of twelve months following reinstatement of her license, Tucker shall submit to the Board a written report from her probation and parole agent reflecting that Tucker continues to successfully fulfill the terms of her probation and/or parole.

3. During the period of limitation, Tucker shall notify the Board of the name of any current employer(s) employing her as a practical nurse.

In the event the Board of Nursing does not accept the Stipulation and 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 24th day of November, 1981.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Donald R. Rittel", written over a horizontal line.

Donald R. Rittel
Hearing Examiner

267-147



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Lee Sherman Dreyfus
Governor

Ann Jansen Haney
Secretary

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

MAILING ADDRESS
P.O. Box 8936
MADISON, WISCONSIN 53708

February 15, 1982

Ms. JoAnn Tucker
c/o Wisconsin Department of Health
and Social Services
Taycheedah Correctional Institution
P.O. Box 33
Taycheedah, WI 53090

RE: In the Matter of the Disciplinary
Proceedings Against JoAnn H. Tucker,
LPN, Respondent

Dear Ms. Tucker:

In meeting on February 11, 1982, the Wisconsin Board of Nursing adopted the Proposed Findings of Fact, Conclusions of Law and Order in the above matter.

However, in regard to the first paragraph of the Order, although it states "...Tucker shall apply...", the Board construes this to read, "...Tucker may apply..." so as to be consistent with the Stipulation of the parties. (Underlining added.)

This action suspends your license for the period of your incarceration and for at least six months thereafter. Further, following reinstatement of your license, you will practice on a limited license for a period of one year.

Please note that if and when you are eligible for a limited license, the Bureau of Nursing will be in a new biennium period. Therefore, at the time you are eligible for a limited license, we will send you information regarding the application for renewal and the fee to be submitted.

Sincerely,

BUREAU OF NURSING

Paula R. Possin
Director

PRP/ms

cc: Marny E. Corbin, Attorney
Wayne R. Austin, Attorney