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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

EILEEN ARNOLD GRIDER, L.P.N.,
RESPONDENT

FINAL DECISION
AND ORDER

ORDER 00001603

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.

A party aggrieved by this decision may petition the board for rehearing within twenty (20) days after service of this decision pursuant to Wis. Stats. sec. 227.12, or may petition for judicial review by filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings will be held and serving the board with a copy of the petition for judicial review within thirty (30) days after service of this decision pursuant to Wis. Stats. sec. 227.16.

Dated this 30th day of July, 1982.

Margaret Lundquist RN

pc017-552

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

PROPOSED DECISION

EILEEN ARNOLD GRIDER, L.P.N., :
RESPONDENT :

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

Eileen Arnold Grider
721 Madison Avenue
South Milwaukee, Wisconsin 53172

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

A Stipulation was filed with the Hearing Examiner in the above-captioned matter on November 17, 1981, the terms of which were incorporated into a Proposed Decision. The Board of Nursing reviewed the examiner's decision, suggested that modifications be made to the Order, and remanded the case for further consideration by letter dated February 15, 1982. The examiner contacted the parties by letter dated February 18, 1982 to inquire as to their agreement to the modification to the Order proposed by the board. The examiner received an affirmative response from complainant's attorney on March 2, 1982, but no response from the respondent, Eileen Arnold Grider. In view of the lack of response from respondent, the examiner scheduled a prehearing conference for April 1, 1982. Respondent did not appear at the prehearing conference, therefore, a date was set for the hearing.

A hearing was held on April 28, 1982 commencing at 9:35 a.m. in Room 171, 1400 East Washington Avenue, Madison, Wisconsin. Appearing for complainant was Attorney Steven M. Gloe, Department of Regulation and Licensing, Division of Enforcement. The respondent, Eileen Arnold Grider, was not present nor did anyone appear upon her behalf.

Based upon the record herein, the Hearing Examiner recommends that the Board of Nursing adopt as its final decision the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Eileen Arnold Grider (Grider), formerly Eileen Arnold, was at all times relevant to these proceedings duly licensed under the provisions of Chapter 441 of the Wisconsin Statutes to practice as a trained practical nurse in the State of Wisconsin (license #8023, issued April 1, 1968).

2. Grider's address is 721 Madison Avenue, South Milwaukee, Wisconsin 53172.

3. On or about January 31, 1980, at Marquette Pharmacy, 3215 South 98th Street, Milwaukee, Wisconsin, Grider unlawfully obtained the Schedule II controlled substance identified as Percodan, a/k/a oxycodone, by use of a fraudulent prescription dated January 31, 1980, and bearing the forged signature of Fernando Q. Gregorio, M.D., in violation of secs. 161.41(2r), 161.43(1)(a), 450.07(7) and 450.07(9)(a), Wis. Stats.

4. On or about February 6, 1980, at Walgreen Drugs, 2901 South Chicago Avenue, South Milwaukee, Wisconsin, Grider attempted to unlawfully obtain the Schedule II controlled substance identified as Percodan by use of a fraudulent prescription dated January 5, 1980, and bearing the forged signature of Fernando Q. Gregorio, M.D., in violation of secs. 161.41(2r), 161.43(1)(a), 450.07(7) and 450.07(9)(a), Wis. Stats.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction to take disciplinary action in this proceeding pursuant to Wis. Stats. sec. 441.07.

2. Obtaining and attempting to obtain a scheduled substance by means of fraudulent prescriptions constitutes moral delinquency as defined by Wis. Adm. Code secs. N 11.03(3)(a) and (b).

3. Pursuant to Wis. Stats. sec. 441.07(1), moral delinquency constitutes a basis for revocation, limitation or suspension of Grider's license or for reprimand by the Board of Nursing.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Eileen Arnold Grider (#8023) shall be, and hereby is REVOKED; effective five (5) days following the date of the final decision of the Board of Nursing.

OPINION

The respondent, Eileen Arnold Grider, obtained and attempted to obtain the controlled substance Percodan through the use of fraudulent prescriptions which bore the forged signature of a physician. Such conduct by a licensed nurse is very serious and, accordingly, a Notice of Hearing and Complaint were issued. Ms. Grider and complainant's attorney, subsequent to the commencement of these proceedings, entered into a Stipulation which was submitted to the examiner and the board for its consideration. The board reviewed the Stipulation and requested that the parties consider modifying the proposed order to provide for an "indefinite suspension until Ms. Grider presents evidence of rehabilitation satisfactory to the Board." (See, Letter from Paula R. Possin to Donald R. Rittel under date of February 15, 1982). Ms. Grider was contacted by letter from the examiner as to the need to respond to the board's suggested modification, but received no reply. Accordingly, a prehearing conference was scheduled to discuss the matter, but Ms. Grider did not attend. Therefore, a formal hearing was scheduled for, and held on April 28, 1982. Again, Ms. Grider did not attend. Complainant's attorney informed the examiner that he had submitted a proposal to Ms. Grider containing specific information the board might require in order to constitute "satisfactory evidence of rehabilitation" within the meaning of the board's recommended disposition of this case. Ms. Grider did not respond in any manner to the proposal.


In view of Ms. Grider's failure to participate in these proceedings subsequent to the board's determination not to accept the previous stipulation, the only issue remaining in this case concerns the disciplinary action, if any, to be taken against Ms. Grider. In determining what discipline should be imposed, 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) deter other licensees from engaging in similar conduct. State v. Aldrich, 71 Wis. 2d 206 (1976). Punishment of the licensee is not a proper consideration. State v. MacIntyre, 41 Wis. 2d 481 (1969).

The serious nature of Ms. Grider's conduct, combined with the lack of any mitigating circumstances which may be considered by the board, indicate that a revocation of Ms. Grider's license is appropriate and necessary. (The board may not take into consideration those circumstances previously presented in the Stipulation, since that agreement was not accepted by the board and, therefore, has no factual effect. See, Wis. Adm. Code sec. RL 2.12.) Given the conduct of Ms. Grider, the Board of Nursing must be given the opportunity to fully evaluate her ability to provide nursing services consistent with the welfare and safety of the public prior to allowing her to engage in such practice. Ms. Grider's failure to appear at the hearing in the case has not provided the board with such an opportunity. The board's previous recommendation of an indefinite suspension until rehabilitation is proven, is no longer an appropriate discipline in light of Ms. Grider's lack of response, which may indicate that such an order is not totally appropriate in her particular case. The board cannot judge the appropriateness of such an order since Ms. Grider has failed to comment upon it, or offer alternatives more suitable to her condition. Thus, the nature of proven rehabilitation required for Ms. Grider's re-entry into the practice of nursing cannot be sufficiently scrutinized. Likewise, a suspension for a determinate period of time does not adequately protect the public interest.

Section 441.07(2) of the Wisconsin Statutes provides that "(a) certificate or license revoked may, after one year, upon application be reinstated by the board." The serious nature of Ms. Grider's conduct and the need for the board to be given an opportunity for full inquiry of Ms. Grider in the event she desires to again practice nursing, indicate that a revocation is warranted in this case.

Dated at Madison, Wisconsin this 7th day of May, 1982.

Respectfully submitted,



Donald R. Rittel
Hearing Examiner