

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARYDELE P. KAY, L.P.N.,
RESPONDENT

FINAL DECISION
AND ORDER

ORDER 0001604

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 26 day of March, 1982.

Marjorie Lundquist

pc017-552

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARYDELE P. KAY, L.P.N.,
RESPONDENT

NOTICE OF FILING
PROPOSED DECISION


To: Marydele P. Kay
c/o April House
2404 North 50th Street
Milwaukee, Wisconsin 53210

Wayne R. Austin
Attorney at Law
Department of Regulation and Licensing
P. O. Box 8936
Madison, Wisconsin 53708

PLEASE TAKE NOTICE that a Proposed Decision in the above-captioned matter has been filed with the Board of Nursing by the Hearing Examiner, Donald R. Rittel. A copy of the Proposed Decision is attached hereto.

If you are adversely affected by, and have objections to, the Proposed Decision, you may file your objections, briefly stating the reasons and authorities for each objection, and argue with respect to those objections in writing. Your objections and argument must be submitted and received at the office of the Board of Nursing, Room 174, Department of Regulation and Licensing, 1400 East Washington Avenue, P. O. Box 8936, Madison, Wisconsin 53708, on or before March 23, 1982.

Dated at Madison, Wisconsin, this 12th day of March, 1982.


Donald R. Rittel
Hearing Examiner

pc955-530

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

PROPOSED DECISION

MARYDELE P. KAY, L.P.N., :
RESPONDENT. :

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

Marydele P. Kay
c/o April House
2404 North 50th Street
Milwaukee, Wisconsin 53210

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

On March 9, 1982 the Hearing Examiner received and filed a Stipulation executed by the respondent, Marydele P. Kay, and complainant's attorney, Wayne R. Austin. A copy of the Stipulation is attached hereto.

Based upon the Stipulation, the Hearing Examiner recommends that the Board of Nursing adopt as its final decision in this 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. Marydele P. Kay (Kay) was, pursuant to chapter 441, Wis. Stats., duly licensed on May 15, 1975 to practice as a trained practical nurse in the State of Wisconsin (license #T-8148).

2. Kay's address is April House, 2404 North 50th Street, Milwaukee, Wisconsin 53210.

3. On May 17, 1979, the Board of Nursing filed its final decision in a disciplinary proceeding against Kay initiated by formal complaint dated December 5, 1978 and entitled "In the Matter of Disciplinary Proceedings Against Marydele P. Kay". A copy of the Board's final decision is attached hereto and made a part hereof.

4. By the terms of the Board's final decision described in paragraph 3, above, it was ordered that Kay's license be suspended for at least a six-month period and that reinstatement of Kay's license was conditioned in part upon participation in a post-reinstatement rehabilitative program as follows:

2b. Kay must participate in a program of rehabilitation and therapy to be directed by Robert F. Thays or his designee, which includes at least the following:

- (1) Continued outpatient treatment at DePaul Rehabilitation Hospital as prescribed by Mr. Thays;
- (2) Regular attendance at Alcoholics Anonymous as prescribed by Mr. Thays;
- (3) Periodic drug screening of a monitored, random, urine specimens collected from Kay;
- (4) Filing by Mr. Thays of a formal written report on Kay's activities and progress, including results of urine drug screenings, with the Board of Nursing every 90 days or as requested which may include recommendations by Mr. Thays concerning modifications of conditions of Kay's practice; the Board may act on such recommendations as it deems appropriate.

5. At its meeting taking place on May 15, 1980, the Board of Nursing reinstated Kay's license to practice subject to the conditions and limitations of its original Order.

6. Since the date of her reinstatement on June 12, 1980, Kay has failed to participate in the program of rehabilitation and therapy set forth in paragraph 2b. of the Board's original order, as cited in paragraph #4, above.

7. Since June 29, 1981, Kay has resided at April House, a residential care facility located at 2404 North 50th Street, Milwaukee, Wisconsin 53210. While a resident at April House, Kay has participated in individual and group therapy, and in Al-Anon and Women For Sobriety meetings. Letters from Patricia L. Rind, counselor, dated August 25, 1981 and November 24, 1981 are attached hereto and made a part hereof.

8. Kay's physical and psychological status as a recovering alcoholic presently requires a structured living environment such as that provided by April House and she is not presently capable of safely and competently practicing as a licensed practical nurse.

9. Kay has voluntarily surrendered her license to practice as a licensed practical nurse in the State of Wisconsin.

CONCLUSIONS OF LAW

1. The State of Wisconsin Board of Nursing has jurisdiction to take disciplinary action in this proceeding pursuant to Wis. Stats. section 227.07(5) and Wis. Stats. section 441.07.

2. Kay's failure to participate in the programs ordered by the Board and her inability to presently safely and competently practice as a licensed practical nurse constitute a basis for reprimand or for limitation, suspension or revocation of Kay's license pursuant to Wis. Stats. section 441.07 and Wis. Adm. Code section N 11.03(3)(e) and 11.03(2).

ORDER

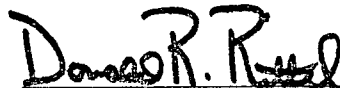
IT IS HEREBY ORDERED that the surrender by Marydele P. Kay of her license to practice as a licensed practical nurse in the State of Wisconsin is hereby accepted.

IT IS FURTHER ORDERED that the license of Marydele P. Kay may be restored to her by the Board upon her application for reinstatement accompanied by evidence satisfactory to the Board that Kay has no physical or psychological problems which would prevent her from safely and competently practicing as a licensed practical nurse. As a condition for reinstatement of Kay's license, the Board may impose such limitations upon the license as the Board feels necessary to insure Kay's continuing ability to practice safely and competently as a trained practical nurse.

[If any term of this Proposed Decision is not adopted by the Board of Nursing, then no term or condition of the attached Stipulation, upon which this Proposed Decision is based, shall be binding in any manner upon any party (Wis. Adm. Code sec. RL 2.12), and the matter shall be returned to the Hearing Examiner for further proceedings.]

Dated at Madison, Wisconsin this 12th day of March, 1982.

Respectfully submitted,



Donald R. Rittel
Hearing Examiner

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARYDELE P. KAY, L.P.N.,
RESPONDENT.

STIPULATION

A formal complaint in the captioned matter was filed on April 22, 1981, the gravamen of which was that the respondent, Marydele Kay, had failed to participate in a program of rehabilitation ordered on May 17, 1979 by the Board of Nursing as a part of the Board's final decision in an earlier disciplinary proceeding against Ms. Kay.

Prehearing conferences were held in the matter on July 27, 1981 and again on September 2, 1981, for the purpose of determining Ms. Kay's position relative to the allegations of the complaint and to discuss a possible resolution of the matter. as a result of those discussions, an agreement was reached as to a stipulated disposition of the matter. That stipulation, as set forth below, is intended as a full disposition of all complaints presently pending against respondent and is further intended as a recommended basis for the final decision of the Board of Nursing.

ACCORDINGLY, complainant, by her attorney, and Marydele P. Kay, in consideration of the terms and conditions of this stipulation and in consideration and upon condition of acceptance of this stipulation by the Board of Nursing, do hereby stipulate:

1. That Marydele P. Kay freely and voluntarily waives her right to a public hearing and to be represented by legal counsel in this cause.

2. That Marydele P. Kay agrees to the adoption by the State of Wisconsin Board of Nursing of Findings of Fact, Conclusions of Law and an Order as set forth below.

FINDINGS OF FACT

1. Marydele P. Kay (Kay) was, pursuant to chapter 441, Wis. Stats., duly licensed on May 15, 1975 to practice as a trained practical nurse in the State of Wisconsin (license #T-8148).

2. Kay's address is April House, 2436 North 50th Street, Milwaukee, Wisconsin 53210.

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FILED
Dept. of Reg. & Lic. DLR
Hearing Examiner

3. On May 17, 1979, the Board of Nursing filed its final decision in a disciplinary proceeding against Kay initiated by formal complaint dated December 5, 1978 and entitled "In the Matter of Disciplinary Proceedings Against Marydele P. Kay". A copy of the Board's final decision is attached hereto and made a part hereof.

4. By the terms of the Board's final decision described in paragraph 3, above, it was ordered that Kay's license be suspended for at least a six-month period and that reinstatement of Kay's license was conditioned in part upon participation in a post-reinstatement rehabilitative program as follows:

2b. Kay must participate in a program of rehabilitation and therapy to be directed by Robert F. Thays or his designee, which includes at least the following:

- (1) Continued outpatient treatment at DePaul Rehabilitation Hospital as prescribed by Mr. Thays;
- (2) Regular attendance at Alcoholics Anonymous as prescribed by Mr. Thays;
- (3) Periodic drug screening of a monitored, random, urine specimens collected from Kay;
- (4) Filing by Mr. Thays of a formal written report on Kay's activities and progress, including results of urine drug screenings, with the Board of Nursing every 90 days or as requested which may include recommendations by Mr. Thays concerning modifications of conditions of Kay's practice; the Board may act on such recommendations as it deems appropriate.

5. At its meeting taking place on May 15, 1980, the Board of Nursing reinstated Kay's license to practice subject to the conditions and limitations of its original Order.

6. Since the date of her reinstatement on June 12, 1980, Kay has failed to participate in the program of rehabilitation and therapy set forth in paragraph 2b. of the Board's original order, as cited in paragraph #4, above.

7. Since June 29, 1981, Kay has resided at April House, a residential care facility located at 2404 North 50th Street, Milwaukee, Wisconsin 53210. While a resident at April House, Kay has participated in individual and group therapy, and in Al Anon and Women For Sobriety meetings. Letters from Patricia L. Rind, counselor, dated August 25, 1981 and November 24, 1981 are attached hereto and made a part hereof.

8. Kay's physical and psychological status as a recovering alcoholic presently requires a structured living environment such as that provided by April House and she is not presently capable of safely and competently practicing as a licensed practical nurse.

9. Kay has voluntarily surrendered her license to practice as a licensed practical nurse in the State of Wisconsin.

CONCLUSIONS OF LAW

1. That the State of Wisconsin Board of Nursing has jurisdiction to take disciplinary action in this proceeding pursuant to Wis. Stats. section 227.07(5) and Wis. Stats. section 441.07.

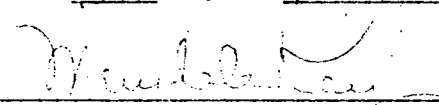
2. That Kay's failure to participate in the programs ordered by the Board and her inability to presently safely and competently practice as a licensed practical nurse constitute a basis for reprimand or for limitation, suspension or revocation of Kay's license pursuant to Wis. Stats., section 441.07 and Wis. Adm. Code section N 11.03(3)(e) and 11.03(2).

ORDER

IT IS HEREBY ORDERED that the surrender by Marydele Kay of her license to practice as a licensed practical nurse in the State of Wisconsin is hereby accepted.

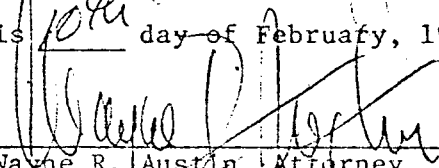
IT IS FURTHER ORDERED that the license of Marydele Kay may be restored to her by the Board upon her application for reinstatement accompanied by evidence satisfactory to the Board that Kay has no physical or psychological problems which would prevent her from safely and competently practicing as a licensed practical nurse. As a condition for reinstatement of Kay's license, the Board may impose such limitations upon the license as the Board feels necessary to insure Kay's continuing ability to practice safely and competently as a trained practical nurse.

Dated at Milwaukee, Wisconsin this 25th day of July, 1982.



Marydele P. Kay

Dated at Madison, Wisconsin this 10th day of February, 1982.



Wayne R. Austin, Attorney
Department of Regulation and Licensing

BEFORE THE
STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION
MARYDELE P. KAY, T.P.N., :
RESPONDENT :

A prehearing conference was held in the above-entitled matter on February 22, 1979. Appearing at the prehearing conference were Attorneys Paula Radcliffe Possin, Room 166, 1400 East Washington Avenue, Madison, Wisconsin 53702 and Dennis R. Cimpl, 10533 W. National Ave., West Allis, Wisconsin 53227.

At the prehearing conference, it was agreed to discuss the possibility of settling this matter by stipulation. On April 20, 1979 the attached Stipulation was filed by the parties and approved by the hearing examiner.

A hearing was not held in the matter for the reason that the parties requested disposition based on the Stipulation filed.

Based on the Stipulation filed on Apr. 20, '79 and on the pleadings and other papers filed in this matter, the Board adopts the following Findings of Fact, Conclusions of Law and Order as its Final Decision in this matter.

FINDINGS OF FACT

1. MARYDELE P. KAY, T.P.M.(Kay), was at all times material to this Complaint duly licensed under the provisions of Chapter 441, Wis. Stats., to practice as a trained practical nurse in the State of Wisconsin. Kay's license, #T8148, was issued on May 15, 1975.

2. Kay's address is 3545 East Tesch Avenue, St. Francis, Wisconsin 53207.

3. Kay has on several occasions practiced or attempted to practice as a trained practical nurse at various health facilities while under the influence of alcohol, as follows:

a. On or about August 20, 1976, Kay reported for work as a trained practical nurse at Cameo Convalescent Center, Inc., Milwaukee, Wisconsin, and was subsequently sent home by her employer on such date because she was under the influence of alcohol and unable to perform her work duties.

b. On or about September 12, 1976, Kay practiced as a trained practical nurse at Marion Heights Nursing Home, Milwaukee, Wisconsin while under the influence of alcohol.

c. In March of 1978, Kay practiced as a trained practical nurse at Glendale Convalescent Center, Milwaukee, Wisconsin, while under the influence of alcohol.

APR 25 1979

4. Kay developed a driving record indicating she had problems with alcohol, as follows:

a. On or about September 27, 1976, Kay was arrested for driving her automobile while under the influence of alcohol. She was ordered by a court to attend traffic school in lieu of revocation of her driver's license.

b. On or about July 15, 1977, Kay's regular driver's license was cancelled because of her alcohol problems.

5. Kay has a medical diagnosis of alcohol addiction and has been treated for alcoholism on several occasions at various health facilities as follows:

a. Kay received treatment for alcoholism previous to December 1972 at Winnebago State Hospital and at Shorewood Sanitarium.

b. Kay was admitted as an inpatient for the treatment of alcoholism at DePaul Rehabilitation Hospital, Milwaukee, Wisconsin, at the following approximate times: December 1972, July 1973, August 1977, and April 1978.

c. Kay has received outpatient treatment for alcoholism at DePaul Rehabilitation Hospital subsequent to her inpatient discharge there in April 1978.

6. Kay is currently in need of treatment for alcoholism, and has undergone recent physical and psychological evaluations at DePaul to assist staff there to prescribe an appropriate treatment program for her.

CONCLUSIONS OF LAW

1. The conduct engaged in by Kay as alleged in paragraphs 3 through 5 herein renders her unfit to practice as a trained practical nurse by reason of habitual intemperance within the meaning of Sec. 441.07 Wis. Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license to practice as a trained practical nurse of Marydele P. Kay, license #T8148, shall be and hereby is suspended for at least a six-month period according to the following terms and conditions:

1. That said six months' suspension shall commence on the effective date of this order;

2. That at the end of the six-month suspension period and upon application by Kay supported by a recommendation in writing to the Board from Robert F. Thays, Counselor at DePaul Rehabilitation Hospital, Milwaukee or a similarly qualified counselor and a report from a physician stating that Kay is physically and psychologically able to resume the practice of trained practical nursing, the Board may reinstate Kay's license subject to the following conditions and limitations:

a. Kay must abstain from any and all use of alcohol and controlled substances as defined in Sec. 161.01(4) Wis. Stats.;

b. Kay must participate in a program of rehabilitation and therapy to be directed by Robert F. Thays or his designee, which includes at least the following:

(1) Continued outpatient treatment at DePaul Rehabilitation Hospital as prescribed by Mr. Thays;

(2) Regular attendance at Alcoholics Anonymous as prescribed by Mr. Thays;

(3) Periodic drug screening of a monitored, random, urine specimen collected from Kay;

(4) Filing by Mr. Thays of a formal written report on Kay's activities and progress, including results of urine drug screenings, with the Board of Nursing every ninety days or as requested which may include recommendations by Mr. Thays concerning modifications of conditions of Kay's practice: the Board may act on such recommendations as it deems appropriate.

c. Kay must successfully complete a six-month period of practice under the direct supervision of a registered nurse who shall file evaluations every ninety days with the Board on Kay's nursing practice.

5. That upon successful completion of the rehabilitative program prescribed by Mr. Thays, and detailed in Paragraph 2b, above, as determined by Mr. Thays and documented by him in a report to the Board of Nursing, and upon successful completion of a probationary work period, as detailed in Paragraph 2c, above, the Board may remove all limitations on Kay's license to practice as a trained practical nurse.

6. Violation by Kay of any of the terms of this Order shall constitute grounds for further disciplinary action against Kay; a finding of violation of any of the terms of this Order would be made by the Board only after Kay has been provided with notice of the alleged violation and an opportunity for a hearing thereon in accordance with the procedural provisions contained in Ch. 227, Wis. Stats., and Ch. RL2 Wis. Adm. Code.

Dated this 17th day of May, 1979.

BY THE BOARD

Sharon M. Weisenberg

Secretary

State of Wisconsin Board of Nursing

Holy Family Retreat Home, Inc.

2435 North 50th Street, Milwaukee, Wisconsin 53210 • Tel.: 414 - 442-5990

MOST REV. W. X. BROWN
EXECUTIVE DIRECTOR



We give -
another chance

8/25/81

Mr. Austin,

Marydele Kay has been at April House since June 29, 1981.

April House is a transitional care facility with an in-house structured program. A client's time of stay depends on the individual.

While Marydele is not working her day time program consists of activities program, group therapy, social skills building class, AA meeting, Women For Sobriety & individual counseling.

When Marydele begins working, if she so desires, she may remain a resident & take part in evening programs as AA meetings, Women For Sobriety, individual counseling, group therapy & other optionals available.

Patricia L. Rich
Counselor

APRIL-HOUSE
2404 N. 50TH ST. 53210

"Christian Care Homes for Alcoholics"

3/9/82
Dept. of Reg. & Lic.
Hearing Examiner

HOLY FAMILY RETREAT HOME
2436 N. 50TH ST. 53210

Holy Family Retreat Home, Inc.

2436 North 50th Street, Milwaukee, Wisconsin 53210 • Tel.: 414 - 442-5990

MOST REV. W. X. BROWN
EXECUTIVE DIRECTOR



We give -
another chance

To Whom It May Concern:

Nov. 24, 1981

Marydele Kay arrived at April House on June 29, 1981. Since then she has taken part in all aspects of program available to her. She presently is working part-time & is planning to get information about low income housing.

We are not a medical facility therefore, we have no medical records that can be released.

Marydele has not been on any medication while in our residence other than antabuse.

My own impression is I feel Marydele should be involved in outside A.A. activities & support groups so she would be preparing herself for independent living.

FILED
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Dept. of Reg. & Lic.
Hearing Examiner

Patricia L. Kirk
Counselor