

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DEBORAH A. JAKUBEK, L.P.N.,
RESPONDENT

FINAL DECISION
AND ORDER

ORDER 0001605

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 25th day of March, 1982.

Margaret Lundquist RN

pc017-552

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DEBORAH A. JAKUBEK, L.P.N.,
RESPONDENT

NOTICE OF FILING
PROPOSED DECISION


To: William J. Schuh
Attorney at Law
225 N. Richmond Street
Appleton, Wisconsin 54911

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 19, 1982.

Dated at Madison, Wisconsin, this 4th 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

DEBORAH A. JAKUBEK, L.P.N., :
RESPONDENT. :

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

Deborah A. Jakubek
735 Appleton Road
Menasha, Wisconsin 54952

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

The Hearing Examiner received a Stipulation on October 30, 1981 executed by the respondent, Deborah A. Jakubek; respondent's attorney, William J. Schuh; and complainant's attorney, Wayne R. Austin. A copy of the Stipulation is attached hereto.

On November 5, 1981 the Hearing Examiner issued a Proposed Decision based upon the Stipulation. The Board of Nursing accepted the Findings of Fact and Conclusions of Law; however, remanded the matter to the Hearing Examiner by letter dated February 15, 1982, requesting that a third limitation be placed upon respondent's license in the Order in addition to those agreed upon between the parties. The Hearing Examiner has received letters from the parties' attorneys indicating they are agreeable to the board's suggested modification of the Order. Those letters are attached hereto.

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. Deborah A. Jakubek was, at all times relevant to the complaint filed in this matter, duly licensed under the provisions of Chapter 441 of the Wisconsin Statutes to practice as a licensed practical nurse in the State of Wisconsin (license number 8158, issued May 15, 1968).
2. Jakubek's address is 735 Appleton Road, Menasha, Wisconsin 54952.
3. On January 10, 1980 Jakubek attempted to illegally procure for her own consumption and use the Schedule II controlled substance identified as Percodan a/k/a Oxycodone Hydrochloride.

4. The attempted procurement of Percodan, as alleged in paragraph 3, above, was undertaken through a telephonic communication to Appleton Pharmacy North, 418 East Longview, Appleton, Wisconsin (pharmacy) in which Jakubek falsely represented that she was the daughter-in-law of one Esther Krubsack, who in fact was a patient under Jakubek's care. Jakubek further falsely represented that Esther Krubsack wished to have her prescription for Percodan refilled.

5. When Jakubek subsequently came to the pharmacy and attempted to pick up the refill prescription she had ordered, she was placed under arrest by an officer of the City of Appleton Police Department.

6. On three occasions in December, 1980, Jakubek illegally procured for her own consumption and use the Schedule II controlled substance identified as Tylenol No. 4 a/k/a acetaminophen with codeine.

7. The procurement of Tylenol No. 4, as alleged in paragraph 6, above, was accomplished by telephonic communications with the Snyder Drug Store, 1632 Lakeshore Drive, Menasha, Wisconsin (pharmacy), in which Jakubek falsely represented that she was calling from the office of a prescribing physician and that the physician had orally prescribed the controlled substance for a Mr. Floyd Meyer. In each instance, Jakubek thereupon went to the pharmacy and picked up the prescription by representing herself as the granddaughter of Floyd Meyer, a fictitious person.

8. On or about February 4, 1981, Jakubek illegally procured for her own consumption and use the Schedule III controlled substance identified as Tylenol No. 4 a/k/a acetaminophen with codeine.

9. The procurement of Tylenol No. 4, as alleged in paragraph 8, above, was accomplished by telephonic communication with the Union Prescription Center, 2310 West College Avenue, Grand Chute, Wisconsin (pharmacy) in which Jakubek falsely represented that she was calling from the office of a prescribing physician and that the prescribing physician had orally prescribed the controlled substance for a Mr. Louis Koehler. Jakubek thereupon went to the pharmacy and picked up the prescription.

10. Jakubek was employed without incident by the Visiting Nurse Association of Appleton, Appleton, Wisconsin, from November, 1977 until her termination on January 11, 1980. She has not practiced, nor has she sought to practice, as a licensed practical nurse since that date.

11. On February 4, 1981, Jakubek entered and successfully completed the 28 day inpatient chemical dependency treatment program at Theda Clark Regional Medical Center, Neenah, Wisconsin. Thereafter, she continued on an outpatient basis in Theda Clark's after-care program. A copy of a letter from Art Bender, Jakubek's counselor in the treatment program, is attached hereto and made a part hereof. Also attached is a letter from Dr. G. A. Gehl, Jakubek's treating physician at Theda Clark, evaluating her progress and prognosis.

CONCLUSIONS OF LAW

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

2. The procurement or attempted procurement of a controlled substance by misrepresentation constitutes a violation of Wis. Stats. sec. 450.07(9).

3. Pursuant to Wis. Stats. sec. 441.07, a violation of Wis. Stats. sec. 450.07(9), constitutes moral delinquency and a basis for reprimand or for suspension, limitation or revocation of Jakubek's license by the Board of Nursing.

ORDER

IT IS HEREBY ORDERED that the license of Deborah A. Jakubek to practice as a licensed practical nurse be, and hereby is, suspended for a period of three months, effective the date of the Final Decision and Order rendered by the Board of Nursing.

IT IS HEREBY FURTHER ORDERED that following reinstatement, Jakubek's license shall be limited for a period of nine months as follows:


(a) Three months following reinstatement of her license, Jakubek shall submit to the Board a written report from Theda Clark Regional Medical Center prepared by a psychologist or psychiatrist following a psychological evaluation reflecting that Jakubek continues to be capable of safely and successfully practicing as a practical nurse.

(b) Nine months following reinstatement of her license, Jakubek shall submit to the Board a second written report from Theda Clark Regional Medical Center prepared by a psychologist or psychiatrist following a psychological evaluation reflecting that Jakubek continues to be capable of safely and successfully practicing as a trained practical nurse.

(c) If Jakubek re-enters the practice of practical nursing during the period of limitation, she shall have filed with the Board by her employer written evaluation reports of her performance as a practical nurse at three month intervals.

Dated at Madison, Wisconsin this 4th day of March, 1982.

Respectfully submitted,


Donald R. Ritter
Hearing Examiner

BEFORE THE
STATE OF WISCONSIN BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DEBORAH A. JAKUBEK, L.P.N.,
RESPONDENT

:
:
:
:
:
STIPULATION
:

On April 23, 1981, a complaint was filed in the above-referenced matter, the gravamen of which was that the respondent, Deborah A. Jakubek, had, in January, 1980, attempted to procure the drug Percodan for her consumption and use by phoning a false prescription to an Appleton pharmacy. At approximately the same time the complaint was filed, Ms. Jakubek contacted Wayne R. Austin, attorney for complainant, and notified him that the incident complained of was the first of three such incidents.

Thereafter, on May 15, 1981, a notice of appearance was filed on behalf of Ms. Jakubek by Attorney William J. Schuh. A series of discussions was entered into between the two attorneys for the purpose of deciding how to handle the additional incidents admitted by Ms. Jakubek and to determine whether the matter could be settled without resort to a fact finding hearing. As a result of those discussions, it was agreed that an amended complaint should be filed incorporating additional allegations of procurement of controlled substances by misrepresentation. An agreement was also 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 Deborah A. Jakubek, by herself and her attorney, 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 respondent freely and voluntarily waives her right to a public hearing in this matter.
2. That Deborah A. Jakubek was, at all times relevant to the complaint filed in this matter, duly licensed under the provisions of Chapter 441, Wis. Stats., to practice as a licensed practical nurse in the State of Wisconsin (license number 8158, issued May 15, 1968).
3. That Jakubek's address is 735 Appleton Road, Menasha, Wisconsin 54952.

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Hearing Examiner

4. That Jakubek does not contest the material allegations of the amended complaint filed in this matter and the parties therefore agree to the adoption by the Board of Nursing of findings of fact consistent with the allegations found at paragraphs 3 through 9 of that amended complaint.

5. That the parties agree the following additional facts exist and further agree to the adoption by the Board of Nursing of findings of fact consistent therewith:

(a) Jakubek was employed without incident by the Visiting Nurse Association of Appleton, Appleton, Wisconsin, from November, 1977 until her termination on January 11, 1980. She has not practiced, nor has she sought to practice, as a licensed practical nurse since that date.

(b) On Feb. 4, 1981, Jakubek entered and successfully completed the 28 day inpatient chemical dependency treatment program at Theda Clark Regional Medical Center, Neenah, Wisconsin. Thereafter, she continued on an outpatient basis in Theda Clark's after-care program. A copy of a letter from Art Bender, Jakubek's counselor in the treatment program, is attached hereto and made a part hereof. Also attached is a letter from Dr. G. A. Gehl, Jakubek's treating physician at Theda Clark, evaluating her progress and prognosis.

6. That the parties agree to the adoption by the Board of Nursing of conclusions of law consistent with the following:

(a) The procurement or attempted procurement of a controlled substance by misrepresentation constitutes a violation of section 450.07(9), Wis. Stats.

(b) Pursuant to section 441.07, Wis. Stats., a violation of section 450.07(9), Wis. Stats., constitutes moral delinquency and a basis for reprimand or for suspension, limitation or revocation of Jakubek's license by the Board of Nursing.

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

IT IS HEREBY ORDERED that the license of Deborah A. Jakubek to practice as a licensed practical nurse be, and hereby is, suspended for a period of three months from the effective date hereof.

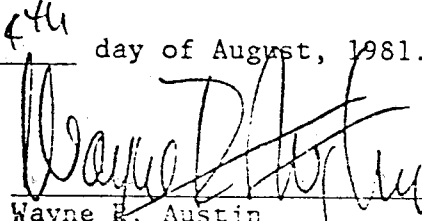
IT IS HEREBY FURTHER ORDERED that following reinstatement, Jakubek's license shall be limited for a period of nine months as follows:

(a) Three months following reinstatement of her license, Jakubek shall submit to the Board a written report from Theda Clark Regional Medical Center prepared by a psychologist or psychiatrist following

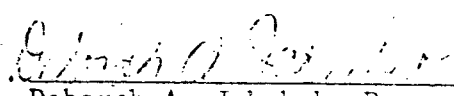
a psychological evaluation reflecting that Jakubek continues to be capable of safely and successfully practicing as a practical nurse.

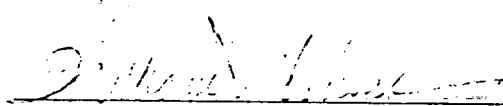
(b) Nine months following reinstatement of her license, Jakubek shall submit to the Board a second written report from Theda Clark Regional Medical Center prepared by a psychologist or psychiatrist following a psychological evaluation reflecting that Jakubek continues to be capable of safely and successfully practicing as a trained practical nurse.

Dated at Madison, Wisconsin this 14th day of August, 1981.


Wayne E. Austin
Attorney for Complainant

Dated at Appleton, Wisconsin this 30th day of ~~August~~^{September}, 1981.


Deborah A. Jakubek, Respondent


William J. Schuh
Attorney for Respondent

GERALD A. GEHL, M.D.

Psychiatry and Child Psychiatry

1215 DOCTORS DRIVE

NEENAH, WISCONSIN 54956

Telephone 725-8285

Sept. 28, 1981

William Schuh, Attorney At Law
225 N. Richmond St.
Appleton, WI 54911

RE: Deborah A. Jakubek

Dear Mr. Schuh:

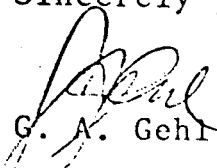
I am writing on behalf of your client, Deborah Jakubek, who asked me to write this letter. As I understand it, you are representing her vis-a-vis the Board of Nursing Examiners concerning the issue of possible disciplinary action.

I have enclosed a copy of the history and physical examination, discharge summary that I prepared, and discharge summary prepared by her counselor when she was a patient at Theda Clark Regional Medical Center and in the Chemical Dependency Treatment Program at that facility during the period of Feb. 4 until March 5, 1981. Mrs. Jakubek has not consulted me since that time until a telephone call today requesting that this letter be written.

As you will note from these documents, I did make the offer at the time to attempt to work with her further either on the basis of her own desire or feeling the need for it, or if she felt the need for therapy and support vis-a-vis her nursing license. In cases of this sort, if a person wishes to continue working or practicing in the field of medicine, an approach that has been useful is to require the person to continue to be active in an appropriate group such as Alcoholics or Narcotics Anonymous, to be involved with someone in individual therapy, and to have periodic random drug screens. In some centers, for example, when a physician is involved in this type of problem, such follow-up is recommended or required for perhaps a period of two years.

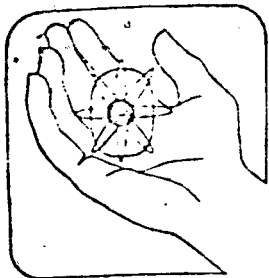
I do not feel that this would necessarily have to be with me, although I would be willing to consider participating. Furthermore, I am sure you appreciate that I am in no way in a position to speak on behalf of the Nursing Board, but am merely offering this as a suggestion if they feel inclined to require some supervision or follow-up for Mrs. Jakubek if she plans to work in the field of nursing care. At this particular point I have no current information or contact with Mrs. Jakubek which would enable me to form any type of opinion regarding her present status.

Sincerely yours,


G. A. Gehl, M.D.

GAG:kh

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Hearing Examiner



THEDA CLARK REGIONAL MEDICAL CENTER

130 SECOND STREET

• NEENAH, WISCONSIN 54956

• PHONE (414) 729-3190

June 26, 1981

William J. Schuh
Attorney at Law
225 N. Richmond St.
Appleton, WI 54911

Re: Debra Jakubek

Dear Attorney Schuh:

This letter is to inform you that Debra has successfully completed the 23 day inpatient program at Theda Clark Regional Medical Center for chemical dependency.

Debra is currently attending the 12 week aftercare program here at Theda Clark and to the staff's knowledge has been chemically free and maintaining sobriety.

If you need any further information or have any further questions, please feel free to contact me.

Sincerely,

Art Bender, Counselor
Chemical Dependency Treatment Program

AB/mb

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OVER 70 YEARS OF SERVICE TO THE COMMUNITY



State of Wisconsin \

DEPARTMENT OF REGULATION & LICENSING

Lee Sherman Dreyfus
Governor

Ann Jansen Haney
Secretary

February 23, 1982

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

MAILING ADDRESS
P.O. Box 9936
MADISON, WISCONSIN 53706

Donald R. Rittel
Hearing Examiner
Office of Board Legal Services
P. O. Box 8936
Madison, Wisconsin 53708

RE: In the Matter of Disciplinary Proceedings Against
Deborah A. Jakubek

Dear Mr. Rittel:

I am in receipt of your letter dated February 18, 1982 in the above-referenced matter. Please be advised that I have no objection to the additional provision recommended to be added to the Order in this matter by the Board of Nursing.

If there is anything further you need from me, please so inform me.

Sincerely,

Wayne R. Austin
Attorney
Division of Enforcement

WRA:smc
309-488

cc: William J. Schuh
Attorney at Law
225 North Richmond Street
Appleton, Wisconsin 54911

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Hearing Examiner

LAW OFFICES
WILLIAM J. SCHUH
225 N. RICHMOND STREET
APPLETON, WISCONSIN 54911

(414) 731-7387

February 23, 1982

Mr. Donald R. Rittel, Hearing Examiner
Department of Regulation and Licensing
1400 East Washington Avenue
Madison, WI 53702

RE: Deborah A. Jakubek

Dear Mr. Rittel:

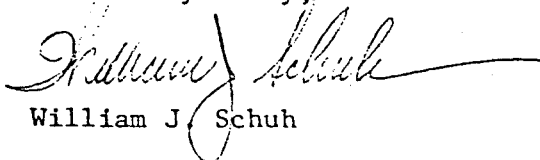
Please be advised that I have discussed with my client, Deborah A. Jakubek, the following suggested modification to your proposed order:

- (c) If Jakubek re-enters the practice of practical nursing during the period of limitation, she shall have filed with the Board by her employer written evaluation reports of her performance as a practical nurse at 3 month intervals.

Mrs. Jakubek and myself have no objections to incorporating this modification in your future proposed order.

Trusting this responds to your letter of February 18th, I remain,

Yours very truly,


William J. Schuh

WJS:eln.

cc: Wayne R. Austin

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