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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

ROY L. PITZEN, R.N., T.P.N., :
RESPONDENT :

FINAL DECISION
AND ORDER

ORDER 0001783

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 1st day of April, 1982.

Marjorie Lundquist RN

017-552

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

ROY L. PITZEN, R.N., T.P.N., :
RESPONDENT :

NOTICE OF FILING
PROPOSED DECISION

To: Roy L. Pitzen
Route #2, Box 309C
Wild Rose, WI 59484

Anthony S. Earl
Foley & Lardner
Attorneys at Law
1 South Pinckney Street
P. O. Box 1497
Madison, WI 53701

Michael J. Berndt
Attorney at Law
Department of Regulation and Licensing
Division of Enforcement
P. O. Box 8936
Madison, WI 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 February 15, 1982.

Dated at Madison, Wisconsin, this 29th day of January, 1982.



Donald R. Rittel
Hearing Examiner

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

PROPOSED DECISION

ROY L. PITZEN, R.N., T.P.N. :
RESPONDENT :

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

Roy L. Pitzen
Route #2, Box 309C
Wild Rose, Wisconsin 54984

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

A Notice of Hearing and Complaint were filed in the above-captioned
matter on October 23, 1981. An Answer to the Complaint was filed on
December 17, 1981.

A hearing was held on January 18, 1982 in Room 179A, 1400 East
Washington Avenue, Madison, Wisconsin. The respondent, Roy L. Pitzen,
appeared personally and by his attorney, Anthony S. Earl, Foley & Lardner,
1 South Pinckney Street, P.O. Box 1497, Madison, Wisconsin 53701.
Appearing for the complainant was Attorney Michael J. Berndt, Department
of Regulation and Licensing, Division of Enforcement, 1400 East Washington
Avenue, P.O. Box 8936, Madison, Wisconsin 53708.

Based upon the evidence in the record and on the pleadings filed
in this matter, 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. Roy L. Pitzen (Pitzen) was at all times relevant to this
proceeding duly licensed under the provisions of Chapter 441 of the Wisconsin
Statutes to practice as a registered nurse and as a licensed practical
nurse in the State of Wisconsin.
2. Pitzen's registered nurse license is #74857 and Pitzen's
trained practical nurse license is #17168.
3. Pitzen's address is Route #2, Box 309C, Wild Rose, Wisconsin 54984.
Pitzen is 33 years old.

CONVICTION

4. Pitzen was convicted of one misdemeanor violation of Section 450.07(9)(a), Wisconsin Statutes, upon a plea of no contest on August 13, 1981, in the Circuit Court for Winnebago County, Wisconsin, Judge Edmund P. Arpin presiding.

5. The Amended Information to which Pitzen pled no contest charged that on June 11, 1980, at the City of Oshkosh, Wisconsin, Pitzen did then and there intentionally and unlawfully obtain a prescription drug, to wit: Codeine, by the forging of a prescription.

6. Following conviction, the sentencing of Pitzen was withheld and Pitzen was placed on probation for a period of two years, with the condition that Pitzen cooperate fully in any drug abuse program recommended by the Department of Health and Social Services.

SURROUNDING CIRCUMSTANCES

7. Pitzen entered the United States Army in 1965 and was stationed in the United States for three years and Vietnam for one year.

8. Prior to entering the service Pitzen had never used any controlled substance.

9. In 1969 Pitzen was exposed to Agent Orange and employed the use of morphine over the course two months after entering Cambodia.

10. After his discharge from the service, Pitzen continued to experience severe headaches and engaged in the heavy use of alcohol for approximately three years. Pitzen became an alcoholic and did not relinquish his use of alcohol until entering a hospital. Pitzen has not had any alcohol in the last two years.

11. After his discharge from the service, Pitzen received prescriptions for Tylenol #3, Empirin #3 and Percodan. After obtaining his nursing licenses, Pitzen was placed on a prescription for Empirin #3, Tylenol #3 and Valium 5mg. for approximately three years.

12. Since his conviction described in paragraph 4, Pitzen has received prescriptions for Fiorinal #2.

13. Pitzen has been employed by the Waushara County Health Services for approximately three and one-half years. Pitzen's work has been competently performed during that time. (See, Respondent's Exhibit A attached hereto.)

14. Pitzen's duties of employment involve caring for home-bound patients and include checking the supplies of medications for some patients.

15. Pitzen is currently suffering from post-traumatic stress disorder resulting from his involvement in the Vietnam War, the effects of which, among others, include severe and persistent headaches. (See, Respondent's Exhibit B attached hereto.)

16. Pitzen has attempted to seek help for his post-traumatic stress disorder by entering the Veterans Administration Hospital in Tomah, Wisconsin for Agent Orange screening and the Guidance Center in Wild Rose, Wisconsin. Pitzen plans to attend an Outreach Center for his post-traumatic stress disorder and the Guidance Center in Wild Rose. The primary objective of the terms of Pitzen's probation, according to the Department of Health and Social Services, is that he receive treatment for post-traumatic stress. (See, Respondent's Exhibit C attached hereto.)

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in this matter pursuant to Wis. Stats. sec. 441.07(1).

2. A conviction for one misdemeanor violation of Wis. Stats. sec. 450.07(9)(a), constitutes a crime as defined in Wis. Stats. sec. 939.12, pursuant to Wis. Stats. secs. 450.07(12)(a) and 939.60.

3. The circumstances of the conviction of Pitzen upon one misdemeanor violation of Wis. Stats. sec. 450.07(9)(a), is substantially related to the practice of a registered nurse and a trained practical nurse, within the meaning of Wis. Stats. secs. 111.325 and 111.32(5)(h)2.b.

4. A conviction for the crime of obtaining a prescription drug by forgery in violation of Wis. Stats. sec. 450.07(9)(a), as described in paragraph 4 of the Findings of Fact, constitutes moral delinquency within the meaning of Wis. Adm. Code sec. N 11.03(3).

5. Engaging in an act of moral delinquency constitutes a basis for the revocation, limitation or suspension of the nursing licenses of Pitzen, or the reprimand of Pitzen.

ORDER

NOW, THEREFORE, IT IS ORDERED that the licenses of ROY L. PITZEN to practice as a registered nurse and as a trained practical nurse shall be, and hereby are LIMITED for a period of ONE (1) YEAR, said limitations being effective ten days following the date of the final decision and order of the Board of Nursing, as follows:

1. Within 30 days from the date of the final decision and order of the Board of Nursing, Pitzen shall provide to the board medical evidence, based in part upon blood and urine analysis, that he is not physically or psychologically drug dependent and that at the time of examination, he was not under the influence of any prescription drug or controlled substance not dispensed or consumed pursuant to the valid prescription of a practitioner. Pitzen shall bear the costs of all tests.

2. Within 30 days prior to the expiration of the limitations ordered by the board, Pitzen shall again provide the medical evidence required in paragraph 1 above. Pitzen shall bear the costs of all tests.

3. At three month intervals during the one year limitation period, Pitzen shall provide to the board his notarized statement concerning his attendance, participation and progress in programs or counseling designed to assist him with his post-traumatic stress disorder.

4. At three month intervals during the one year limitation period, Pitzen shall provide to the board written statements prepared by his employer, or employer's designee, that his work has been satisfactory and free from any drug-related complaints from co-workers or the public.

5. Any violation of the above-described limitations may result in further disciplinary action by the Board of Nursing. Wis. Adm. Code sec. N 11.03(3)(e).

OPINION

The only issue in this case is the appropriate discipline, if any, to be imposed under the facts and circumstances of this case.

The primary purposes for imposing disciplinary sanctions in a proceeding such as this are: 1) protection of the public, 2) promoting the rehabilitation of the licensee involved, and 3) deterring other licensees from engaging in similar conduct. State v. Aldrich, 71 Wis.2d 206, 209 (1976). Punishment of the licensee is not a proper consideration. State v. MacIntyre, 41 Wis.2d 481, 485 (1969).

The following circumstances indicate that the limitations proposed herein are sufficient to meet the public interest in this case:

1. Pitzen's acts were not performed while he was engaged in licensed activity. Accordingly, the procurement of codeine did not involve patients or patient medications.

2. Pitzen's purpose in illegally obtaining codeine was for his own private use and self-medication. There is no evidence that Pitzen intended to procure the codeine for commercial sale or to supply friends or family, or for personal gain. Given Pitzen's established severe headaches, apparently stemming at least in part from post-traumatic stress disorder due to his service in the Vietnam War, it appears that the motive for his conduct involved the relief of his physical condition.

3. Pitzen's employment record over the last three and one-half years has been commendable. Pitzen's competence to practice is not questioned, and, indeed, appears well demonstrated by his employment record. (See, Respondent's Exhibit A).

A suspension from practice is not always required in order to protect the public where a licensee is engaging in a process of rehabilitation, and the result is likely to be successful. See, State v. Wheeler, 51 Wis.2d 129, 131 (1971); State v. Wildermuth, 34 Wis.2d 235, 242 (1967); State v. Roggensack, 19 Wis.2d 38, 47 (1963). The examiner does not believe that it is necessary to suspend Pitzen. There is no indication that Pitzen is currently drug dependent, however, the screening limitation recommended herein will better establish his current condition. Furthermore, Pitzen is currently on probation and subject to the jurisdiction of the Wisconsin Department of Health and Social Services which has not ordered Pitzen to participate in any drug abuse program at this point. Health and Social Services appears more concerned that Pitzen take measures to deal with his post-traumatic stress. (See, Respondent's Exhibit C). The limitations recommended will require periodic reports to the board as to Pitzen's compliance and progress. Pitzen's previous rehabilitation from alcoholism suggests a likelihood of successful treatment.

In this case, a suspension might be punitive in overall effect, given Pitzen's work record and the possibility that a suspension could unduly augment against his efforts at rehabilitation for post-traumatic stress and thereby adversely effect the prime objective of the Department of Health and Social Services in overseeing his probationary period. Furthermore, a short suspension would not serve to deter other licensees to such an extent as to outweigh these factors.

It is my opinion that the limitations recommended here will promote the rehabilitation of a competent licensee and adequately protect the public interest by requiring drug screenings and periodic status reports concerning efforts at rehabilitation and continued satisfactory work performance.

Dated at Madison, Wisconsin this 29th day of January, 1982.

Respectfully submitted,



Donald R. Rittel
Hearing Examiner

Waushara County Health Services

COURTHOUSE ANNEX
P.O. BOX 254- 885
WAUTOMA, WISCONSIN 54982

1-414-787-4661

December 14, 1981

Department of Regulation and Licensing
Bureau of Health Professions
Bureau of Nursing
P.O. Box 8936
Madison, WI 53708

Dear Sirs:

It has been brought to my attention by a staff member, Roy Pitzen, that he will appear for a disciplinary hearing in January.

Roy Pitzen has worked for this agency for approximately three and one half years. During this time he has exhibited excellent work habits, has carried a heavy caseload, has worked very well with the rest of the staff and has shown unusually deep compassion for his patients. He is a good nurse in every way and has earned tremendous respect and affection from his patients. As an illustration of the relationship to the other members of the staff, he was this year elected to represent them on the salary negotiating team.

Because of Roy's recurrent and severe headaches he was encouraged to seek the full agent orange screening from the Veterans Administration, since he had been in direct contact with freshly sprayed foliage over a period of time in Vietnam. He apparently did not receive any help with his problem of headaches and nightmares from this encounter and at this time turned to counseling in the Waushara County Guidance Center with our encouragement.

We have never received a single complaint about Roy from a patient, but have received both written and verbal praise for his dedication and willingness to attend to the needs of patients during non-duty hours.

If I can provide additional or any specific information for your use at the hearing please feel free to call on me. The Health Committee of the Waushara County Board of Supervisors has been kept abreast of Roy's situation and approves of this communication supporting Roy as a high quality staff member of this agency.

Sincerely,

E. Ann Buck
(Mrs) E. Ann Buck, R.N.
Director

Respectfully R.A.
1/18/82 D2R

EAB/pam

12-21-81

Mr. Pitzen is suffering from a post-traumatic stress disorder subsequent to his involvement in the Vietnam War. Specific symptomatology includes the following: severe and persistent headaches, hyperalertness, recurring and terrifying nightmares, sleeplessness, irritability, overwhelming feelings of guilt, social withdrawal, and drug dependency in an effort to cope with the above. Such symptoms are often mistaken as signs of personality disorders, which are resistive to most forms of treatment. In reality, this post-traumatic disorder defies most traditional forms of psychotherapy or chemotherapy, but does respond to indepth outpatient or inpatient treatment involving groups of combat veterans. Such groups encourage participants to reveal their experiences in the war and discuss how these experiences continue to impact on their daily lives. Mr. Pitzen has informed me that he will be entering just such a therapy group as of January, 1982.

It should be noted that Mr. Pitzen's experiences in the war involved horrors and tragedies of such magnitude as to seriously impair the adjustment and coping skills of virtually any "mentally healthy" individual. Despite this, Mr. Pitzen has successfully acquired a college degree and has consistently maintained employment. As is the case with many combat veterans, however, his personal adjustment has been disrupted in the manner described above. The appropriate use of drugs to combat these symptoms is a subject of controversy among psychiatrists; the illegal procurement of such drugs clearly is not.

Nevertheless, such illegal behavior may indeed have been the result of his experience that many years of combating the nightmares, guilt, and anxiety, his only symptom relief was with medication. If a tendency to rely upon medication for symptom relief would persist beyond treatment in the combat-veterans group, a drug-treatment program would be essential. Individual psychotherapy and family therapy are also possibilities following the combat-veterans group.

PT/ps

Paul Theyel, MS Psychologist

Respondents G & B
1/18/82 DRR

P. O. Box 618
Wautoma Wisconsin 54981

December 29, 1981

Department of Regulation
& Licensing
Board of Nursing
P. O. Box 8936
Madison Wisconsin 53708

Attention: Donald R. Rittell

Dear Mr. Rittell:


RE: ROY L. PITZEN

I have been informed that Roy Pitzen has been scheduled for a review before the State Board of Nursing. As you are aware Mr. Pitzen was recently placed on probation for the misdemeanor offense of Using Forced Prescriptions to Obtain a Controlled Substance. It is my understanding that this is the basis for the disciplinary review.

Please be advised that Mr. Pitzen has no prior criminal record, that his offense occurred before he started working as a county nurse, and as such was not work related. It is my opinion that Mr. Pitzen is suffering from Post Traumatic Stress Syndrome as a result of his military experience in Vietnam. I believe that his involvement in the prescription drug usage was a secondary symptom of the Post Traumatic Stress Syndrome. Mr. Pitzen currently leads the life of a respected, contributing citizen in the community. The primary objective of his probation is to guarantee that he receives treatment for Post Traumatic Stress. It is our hope that after he receives treatment he will be able to help start a program for Vietnam veterans in our area. Through the course of his employment as a county nurse, he is able to reach veterans in need.

I would like to ask the State Board of Nursing not to suspend Mr. Pitzen's nursing license because I believe it would not only serve to be a hardship on Mr. Pitzen but the community as well.

Sincerely,

Charlotte Newman, Field Agent
BUREAU OF COMMUNITY CORRECTIONS

CN:sc

cc: Anthony S. Earl
Roy Pitzen
FileRespondent's C & C
1/18/82 DRR