

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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FILE COPY

BEFORE THE STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JANIS K. PENN,
RESPONDENT.

FINAL DECISION
AND
ORDER

ORDER 0001738

The State of Wisconsin Board of Nursing, having reviewed the matter and having considered the Stipulation and the Proposed Decision attached hereto, makes the following:

ORDER

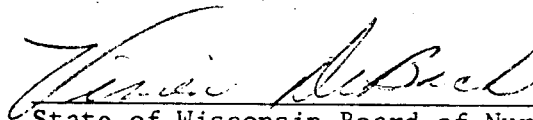
NOW, THEREFORE, it is ordered that the Proposed Decision attached hereto shall be and hereby is made and ordered the Final Decision and Order of the State of Wisconsin Board of Nursing. Let a copy of this order be served on the Respondent by certified mail.

The parties to this proceeding for the purposes of Wisconsin Statutes section 227.16 are: Janis K. Penn, 834 West Badger Road, #4, Madison, Wisconsin 53713; Board of Nursing, 1400 East Washington Avenue, P.O. Box 8936, Madison, Wisconsin 53708; Department of Regulation and Licensing, Division of Enforcement, 1400 East Washington Avenue, P.O. Box 8936, Madison, Wisconsin 53708.

A party aggrieved by this decision may petition the Board for rehearing within twenty (20) days after service of this decision pursuant to Wisconsin Statutes section 227.12. The party to be named as respondent in the petition is Janis K. Penn.

A party aggrieved by this decision may also petition for a 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 and other parties with a copy of the petition for judicial review within thirty (30) days after service of this petition pursuant to Wisconsin Statutes section 227.16. The party to be named as respondent in the petition is the State of Wisconsin Board of Nursing.

Dated this 11 day of March, 1983.



State of Wisconsin Board of Nursing

BEFORE THE STATE OF
WISCONSIN BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

JANIS K. PENN,
RESPONDENT. :

PROPOSED DECISION

FINDINGS OF FACT

1. That Janis K. Penn, hereinafter called the Respondent, was at all times relevant to this complaint, duly licensed under the provisions of Chapter 441, Stats., to practice as a registered nurse in the State of Wisconsin.
2. That the Respondent's registered nurse license is #61576, granted on January 10, 1975.
3. That the Respondent's address is 834 West Badger Road, #4, Madison, Wisconsin 53713.
4. That from February, 1981, through on or about May 24, 1982, the Respondent converted to her own use and self-administered Dilaudid, a Schedule II controlled substance, on an unknown number of dates, while working as a registered nurse at Madison General Hospital, Madison, Wisconsin.
5. That on or about May 24, 1982, the Respondent converted to her own use and self-administered four 100 mg. tubexes of Demerol, a Schedule II controlled substance, while working as a registered nurse at Madison General Hospital, Madison, Wisconsin.
6. That on or about May 23, 1982, the Respondent converted to her own use and self-administered Valium, a Schedule II controlled substance, while working as a registered nurse at Madison General Hospital, Madison, Wisconsin.
7. That said medications were diverted without the falsification of patient records, except on one occasion when the falsification was immediately discovered.
8. That the purpose of the diversion was the Respondent's private use and the motive was the relief of psychological stress.
9. That from May, 1982, to present, the Respondent has received outpatient group and individual counseling at the Madison Family Institute. Exhibit A describes the Respondent's rehabilitative efforts in this regard.
10. That from May, 1982, to the present, the Respondent has on nearly a daily basis attended Alcoholics Anonymous or Narcotics Anonymous meetings.

11. That the Respondent has met with a social worker on approximately a monthly basis since May, 1982.

12. That from September 1, 1982, to November 15, 1982, the Respondent worked as a staff nurse at Americana Nursing Home.

13. That since November 15, 1982, the Respondent has been employed as a staff nurse at Mendota Mental Health Institute. Attached as Exhibit B is a letter from the Respondent's supervisor at Mendota.

14. That attached as Exhibit C is a letter from the Respondent's attorney describing the Respondent's rehabilitative efforts.

CONCLUSIONS OF LAW

1. That converting controlled substances to one's own use and self-administering such controlled substances as described above, constitute moral delinquency and unprofessional conduct as defined by Sections N 11.03(3) and N 11.04(1), Wisconsin Administrative Code.

2. That pursuant to Section 441.07, Wisconsin Statutes, the Board of Nursing has jurisdiction to take disciplinary action against the Respondent for engaging in moral delinquency and unprofessional conduct.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license to practice registered nursing of the Respondent, Janis K. Penn, shall be and hereby is suspended for a period of 12 months. Said suspension is hereby stayed.

IT IS FURTHER ORDERED, that the license to practice as a registered nurse of the Respondent be limited for a period of two years, commencing 15 days following the date of the Board's final order in this matter. The limitations are as follows:

1. The Respondent must inform current and prospective employers of her history of drug abuse.
2. The Respondent must inform the Board of Nursing of any change in her employment status within five days of such change.
3. The Respondent shall not consume any unprescribed controlled substances.
4. The Respondent shall continue with her outpatient program of counseling, including attendance at the Madison Family Institute and attendance at Alcoholics Anonymous and Narcotics Anonymous meetings.
5. The Respondent shall submit to a monitoring program headed by a supervising therapist of random and witnessed samplings on approximately a twice a month basis of her blood and/or urine for the presence of unprescribed controlled substances. The Respondent shall be responsible for obtaining a program acceptable to the Board and for all costs associated with the program.

6. The Respondent shall cause a supervising therapist to file quarterly reports with the Board addressing the respondent's status in the program. All positive drug screens and all failures to meet conditions of the program shall be reported immediately and said reports shall contain a recommendation as to whether further disciplinary action is required by the Board.
7. The Respondent shall cause her work supervisor to send written quarterly reports to the Board evaluating the Respondent's work performance.
8. The Respondent may petition the Board at any time during the period of limitation to revise or eliminate any or all of the above conditions.
9. A violation of any of the terms of the limited license may result in a summary suspension of the license, imposition of the stayed suspension, and any additional discipline the Board believes is warranted based upon said violation.

MB:kh
086-564

BEFORE THE STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JANIS K. PENN,
RESPONDENT.

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STIPULATION

The parties in this matter agree and stipulate as follows:

1. That the Respondent waives her right to a public hearing in this matter.

2. That without admitting or denying any of the allegations of the Complaint, the Respondent urges the Board of Nursing to adopt this Stipulation and attached Proposed Decision.

3. That if the terms of this Stipulation and Proposed Decision are not acceptable to the Board of Nursing, then the parties shall not be bound by any of the terms.

Date: 2/22/83

Michael J. Berndt
Michael J. Berndt,
Attorney for Complainant

Date: 2/28/83

Janis K. Penn
Janis K. Penn, Respondent

Date: 3/1/83

Howard S. Goldman
Howard S. Goldman,
Attorney for Respondent

MJB:kh
949-911



Madison Family Institute

602 N. Whitney Way • Madison, WI 53705 • (608) 238-7999

February 4, 1983

Exhibit A

Michael Berndt
Division of Enforcement
Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8936
Madison, Wisconsin, 53708

Dear Mr. Berndt:

The following information is being given at the request of our patient Janis Penn. She has been involved at the Madison Family Institute since May 26, 1982 through the present date for treatment of chemical dependency.

Ms. Penn has made excellent progress since she has been in treatment. Her motivation for sobriety has included active participation in her therapy and she reports attending 1-2 Narcotics Anonymous meetings per week and 5-6 Alcoholics Anonymous meetings per week.

Further information will be released only at the request of the patient and approval from our treatment team.

Sincerely,

RaeNell Mittleider MS
Family Services Coordinator

RM/vlw

C/c Howard Goldman
Janis Penn



State of Wisconsin \

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

January 11, 1983

DIVISION OF COMMUNITY SERVICES
MENDOTA MENTAL HEALTH INSTITUTE
301 TROY DRIVE
MADISON, WISCONSIN 53704
(608) 244-2411

Exhibit B

Michael Berndt
Division of Enforcement
State of WI.-Department of Reg. & Licensing
1400 E. Washington Avenue
Box 8936
Madison, WI. 53708

Dear Mr. Berndt:

This letter is to verify that Janis Penn has been employed full time as a staff nurse at Mendota Mental Health Institute since November 15, 1982. When she interviewed for this position Ms. Penn disclosed to me her history of substance abuse and subsequent treatment for same. At that time I had a conversation with you about her status and my concerns as a prospective employer.

I decided to offer Ms. Penn a position. To the best of my knowledge, there have not been, nor are there any current drug related problems in her performance as a staff nurse at the Institute.

If I can be of any further assistance, please feel free to call me at 244-2411, Ext. 341.

Sincerely yours,

Sheila Dresen

Sheila Dresen, R.N.
Director of Nursing

SD:rl

CC: Janis Penn

HOWARD S. GOLDMAN
ATTORNEY AT LAW
SUITE 21
222 SOUTH HAMILTON STREET
MADISON, WISCONSIN 53703

(608) 251-9191

November 8, 1982

Exhibit C

Mike Berndt
Attorney at Law
Dept. of Regulation
and Licensing
P.O. Box 8936
Madison, WI 53708

RE: Janis Penn

Dear Mike:

At your suggestion I write this letter to provide you with information about Janis Penn's efforts to rehabilitate herself since the incident at Madison General Hospital and about her readiness to return to work. Your investigator, Jim Krudwig, has already learned much of this information from Janis, and Janis' personal statement also contains much of this information.

As soon as Janis' drug addiction came to light at Madison General Hospital in May, 1982, she began participation in a treatment program at Madison Family Institute. The treatment began with an assessment on May 26, 1982. Since the assessment she has been faithfully attending group meetings and individual counseling at the Institute. During the first month following May, 1982, both the group meetings and the counseling met frequently. From July to October, Janis attended group meetings once per week and met with her counselor once per week. Since October the group meetings and counseling have been held about once per month. The reduction in group meetings and counseling has the blessing of the Institute's professionals and is warranted because the treatment has begun to achieve its goals. Janis has attended all meetings. Her faithful attendance is to be commended especially in light of the fact that Janis did so knowing that her medical insurance may not cover the bill, now at \$1,000, for all these sessions.

During June, July and August, 1982 Janis kept an appointment with Hal Rosenberg, a social worker whom she had been seeing before the incident at the Hospital. Since September she has been seeing him once every 4 to 6 weeks.

Janis has found a great deal of strength and support in Alcoholics Anonymous and Narcotics Anonymous. Currently, she is attending meetings of these groups

Mike Berndt
RE: Janis Penn
November 8, 1982
Page 2

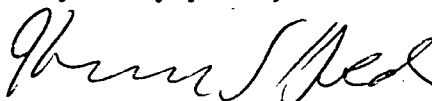
at least once, and usually twice a day seven days a week. We all recognize the fine work of AA and NA and know that participants in these groups, including Janis, squarely face their chemical dependency and support each other to control that dependency.

By her statement to Mr. Krudwig, Janis has agreed to participate in drug testing by the State upon immediate notice. She is willing to pay for those drug tests to the extent that she is able.

As to her readiness to return to work, Janis can offer 2 facts. First, since September 1, 1982, Janis has been working as a staff nurse at Americana Nursing Home. She has done so without incident. In fact, Americana has offered to promote her. Clearly, Janis has demonstrated that her past impairment does not affect her current ability to competently perform her job. Second, Mendota Mental Health Institute, with full knowledge of Janis' drug addiction and the incident at Madison General Hospital and your investigation, has offered Janis a full time position as a staff nurse. Janis has accepted the position and will begin work on November 15, 1982. It is fair to conclude that Sheila Dresen, the Mendota official who offered Janis the position, is satisfied that Janis is ready to return to work.

Please use this letter in reaching a recommendation on a fair disposition of this case. If I can answer any of your questions, please contact me.

Very truly yours,



Howard S. Goldman
Attorney at Law

HSG:dv
cc: Janis Penn