

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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AP
mailed
6-28-84

BEFORE THE STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

NOTICE OF HEARING

JACK ROBERT HERKOWSKI, R.N., :
RESPONDENT. :

TO: Jack Robert Herkowski, R.N.
2479 S. Chase Ave.
Milwaukee, WI 53207

Please take notice that a hearing constituting a class 2 proceeding as defined in sec. 227.01(2)(b), Wis. Stats., will be held on the 13th day of September, 1984, at 9:30 a.m. or as soon thereafter as the matter may be reached, in Room 177, 1400 East Washington Avenue, Madison, Wisconsin, on the question of whether the license heretofore issued to the above-named respondent pursuant to Chapter 441, Wis. Stats., should be suspended or revoked, the above-named respondent should be reprimanded or whether such license should be limited.

The legal authority and jurisdiction under which the hearing is to be held is set forth in Chapter 441, Wis. Stats., and Chapter RL 2, Wis. Adm. Code.

The matters asserted and the charges then and there to be considered are as set forth in the attached complaint to which you are required to make answer in writing within 20 days from the date of service of the complaint. The hearing examiner designated to preside over the matter pursuant to sec. 227.09(2), Wis. Stats. and sec. RL 2.10, Wis. Adm. Code, is Donald R. Rittel, State of Wisconsin, Department of Regulation and Licensing, P.O. Box 8936, Madison, Wisconsin 53708. You shall file your answer with the examiner at the address indicated, a copy of said answer with the Board and a copy with complainant's attorney, Michael J. Berndt, State of Wisconsin, Department of Regulation and Licensing, P.O. Box 8936, Madison, Wisconsin 53708 (608-266-2881). If you fail to file an answer within such time, a default judgment may be entered, and your license revoked, suspended, or other disciplinary action taken upon proof of such default. If you fail to appear at the time set for hearing, a default judgment may be entered, and your license revoked, suspended, or other disciplinary action taken upon proof of such default.

If you are represented by counsel, the counsel is requested to file a notice of appearance with the Board forthwith.

Dated at Madison, Wisconsin this 26th day of June, 1984.

MJB:dms
pc121-285

Michael J. Berndt
Michael J. Berndt, Attorney
Division of Enforcement

BEFORE THE
STATE OF WISCONSIN BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: COMPLAINT
JACK ROBERT HERKOWSKI, R.N., :
RESPONDENT. :

Mary N. Laughlin, an Investigator for the Division of Enforcement,
Department of Regulation & Licensing, 1400 East Washington Avenue,
Madison, Wisconsin 53702, complains and alleges as follows:

1. That Jack R. Herkowski, hereinafter called the Respondent, held a license as a registered nurse at all times relevant to this complaint.
2. That the Respondent's registered nurse certificate is #71106, issued on September 29, 1978.
3. That the Respondent's address is 2479 South Chase Avenue, Milwaukee, Wisconsin 53207.
4. That on May 16, 1984, the Oregon State Board of Nursing, suspended the Respondent's Oregon nursing license for a period of six months, said suspension to be followed by a two year period of probation.
5. That attached as Exhibit A is a copy of the Findings of Fact, Conclusions of Law and Order of the State of Oregon Board of Nursing.
6. That by having his State of Oregon Board of Nursing registered nurse license suspended as set forth above, the Respondent has had disciplinary action taken against a license in another state, contrary to Wis. Adm. Code section N 11.03(3)(d) which constitutes unprofessional conduct as defined by Wis. Adm. Code section N 11.04(1).
7. That the Board has jurisdiction to take disciplinary action for violations of Board rules and unprofessional conduct pursuant to section 441.07, Stats.

WHEREFORE, the Complainant requests that the Board hear evidence relevant to the matters recited in this complaint and determine and impose the sanctions warranted.

Dated this 26th day of June, 1984.

Mary N. Laughlin

Mary N. Laughlin, Investigator
Division of Enforcement
Department of Regulation & Licensing

STATE OF WISCONSIN)
) ss
COUNTY OF DANE)

Mary N. Laughlin, being first duly sworn on oath, deposes and says that she is the complainant in this matter and that she has read the foregoing complaint and knows the contents thereof and that the same is true to her own knowledge, except as to those matters therein stated on information and belief and as to such matters, she believes them to be true.

Mary N. Laughlin
Mary N. Laughlin, Investigator
Division of Enforcement
Department of Regulation & Licensing

Subscribed and sworn to before me
this 26th day of June, 1984.

Michael J. Berndt
Michael J. Berndt
Notary Public
Dane County, Wisconsin
My Commission is Permanent.

MJB:kcb
139-975

BEFORE THE BOARD OF NURSING
OF THE STATE OF OREGON

DATE: 5-18-84

I CERTIFY THIS TO BE A
TRUE COPY OF THE RECORDS
ON FILE WITH THE OREGON
BOARD OF NURSING

SIGNED: [Signature]

In the Matter of
JACK HERKOWSKI, R.N.
License No. 83-042554

) FINDINGS OF FACT,
) CONCLUSIONS OF LAW
) AND ORDER

This matter was considered by the Board, meeting in Portland, Oregon on March 21, 1984. The licensee, Jack Herkowski, did not appear personally. The state appeared through Mary Amdall-Thompson, Assistant Executive Director in Nursing Practice. The purpose of the hearing was to determine whether the allegations contained in the statement of charges are true and whether action should be taken with respect to Jack Herkowski's license to practice as a R.N. in the State of Oregon.

I

FINDINGS OF FACT

Based on the evidence submitted through stipulation and testimony presented, the Board finds the following:

1.1 That Jack Herkowski, is licensed to practice as a R.N. in the State of Oregon.

1.2 That sufficient evidence upon which a finding of habitual intemperance in the use of, or addiction to, habit-forming or dangerous drugs was presented during the hearing. Respondent took from his employer, Bay Area Hospital, Coos Bay, Oregon an unauthorized controlled substance, Sublimaze, for his personal use. This occurred from late December 1983 through February 1984.

1.3 That sufficient evidence upon which a finding that Jack Herkowski engaged in acts that are considered to be a serious danger to the public health and safety and not considered acceptable standards of good nursing practice by law or custom.

a) Respondent self-injected with Sublimaze while on duty and thereby was working under the influence of the drug.

Exhibit A

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board makes the following conclusions of law:

2.1 That the Board has jurisdiction over the licensee, Jack Herkowski, and over the subject matter of this proceeding.

2.2 That the theft of controlled substances from Bay Area Hospital, Coos Bay, Oregon, during late December 1983 through early February 1984, and its use, is grounds for suspension or revocation of the license of Jack Herkowski, pursuant to ORS 678.111 (1) as follows:

- (1) Issuance of the license to practice nursing of any person may be refused or the license may be revoked or suspended or the licensee may be placed on probation for a period specified by the board and subject to such condition as the board may impose or may be issued a limited license or may be reprimanded or censured by the board, for any of the following reasons:
 - (e) Use of any controlled substance or intoxicating liquor to an extent or in a manner dangerous or injurious to the licensee or others or to an extent that such use impairs the ability to conduct safely the practice for which the licensee is licensed.
 - (f) Conduct derogatory to the standards of nursing.
 - (g) Violation of any provision of ORS 678.010 to 678.455 or rules adopted thereunder.

OAR 851-30-156 violations:

- (2) The nurse shall not violate any law or duly promulgated rule or regulation intended to guide the conduct of a nurse nor shall the nurse aid, abet, or assist any other person to violate or circumvent such a law, rule, or regulation.
- (4) The nurse shall not take equipment, materials, property, drugs, or medicine from an employer or patients without prior knowledgeable

authorization nor does the nurse solicit or borrow money, materials or property from patient.

- (5) The nurse shall not obtain, possess, furnish, dispose of, or administer prescription or illegal drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs.

III

ORDER

Based on the foregoing findings of fact, conclusions of law, and the Board being fully advised, it is hereby ordered that Jack Herkowski's license to practice Registered Nursing in the State of Oregon is hereby suspended for six months and at the end of the suspension period, he is to serve a probation time of two years, while employed in nursing.

DATED, this 16th day of May 1984

Patricia Oliver-Lane

Patricia Oliver-Lane, R.N.

President

Oregon State Board of Nursing