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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARY BETH NAGEL, L.P.N.,
RESPONDENT.

FINAL DECISION
AND ORDER

ORDER 0001618

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.

A party aggrieved by this decision may petition the board for rehearing within twenty (20) days after service of this decision pursuant to Wis. Stats. sec. 227.12. The party to be named as respondent in the petition is Mary Beth Nagel.

A party aggrieved by this decision who is a resident of this state may also petition for judicial review by filing the petition in the office of the clerk of the circuit court for the county where the party aggrieved resides within thirty (30) days after service of this decision. A party aggrieved by this decision who is not a resident of this state must file the petition for judicial review in the office of the clerk of circuit court for Dane County. A party aggrieved must also serve the board and other parties with a copy of the petition for judicial review within thirty (30) days after service of this decision pursuant to Wis. Stats. sec. 227.16. The party to be named as respondent in the petition is the State of Wisconsin, Board of Nursing.

Dated this 30th day of March, 1984.

Timothy DeBach

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

MARY BETH NAGEL, L.P.N., :
RESPONDENT. :

PROPOSED DECISION

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

Mary Beth Nagel
541 4th Street, N.W.
Largo, Florida 33540

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

Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue, Room 183
P.O. Box 8936
Madison, Wisconsin 53708

A Notice of Hearing and Complaint were filed in the above-captioned matter on August 11, 1983. The evidentiary hearing was scheduled for December 16, 1983. Complainant's Attorney, Steven M. Gloe, Department of Regulation and Licensing, Division of Enforcement, filed a Motion and Notice of Hearing dated October 4, 1983 requesting that a default judgment be entered against the Respondent, Mary Beth Nagel, due to her failure to file a written Answer to the Complaint, and further that this matter resolved at the hearing on the motion and without further motion, pleadings, or hearing.

A hearing was held upon Complainant's motion on October 14, 1983 at 1400 East Washington Avenue, Madison, Wisconsin. Steven M. Gloe appeared at the hearing on behalf of the Complainant. Mary Beth Nagel did not appear at the hearing, nor did anyone appear upon her behalf.

Based upon the motion of Complainant, the evidence submitted by Complainant at the motion hearing, and the records on file herein, the Hearing Examiner grants Complainant's motion and recommends that the Board of Nursing adopt as its final decision the following Findings of Facts, Conclusions of Law, and Order.

FINDINGS OF FACT

Mary Beth Nagel, L.P.N. (hereinafter referred to as Respondent), 541 4th Street, N.W., Largo, Florida 33540, is duly licensed as a Licensed Practical Nurse in the State of Wisconsin (license #12460). This license was issued on May 25, 1972.

COUNT I

1. On or about May 9, 1981, Respondent was working the night shift as a L.P.N. on the third floor of Marian Catholic Home, 333 West Highland Boulevard, Milwaukee, Wisconsin.

2. On that date, Respondent charted an 11:30 p.m. administration of 50 mg of Demerol (Meperidine Hydrochloride, hereinafter Demerol) to J. J., a patient assigned to Respondent's care.

3. Patient J. J.'s medical orders indicate that J. J. was to receive 50 mg of Demerol for pain as needed every four hours. J. J. had not received any injection for pain at Marian Catholic Home prior to the evening of May 9, 1981; a subsequent order for pain medication for J. J. was never used.

4. Respondent administered a second 50 mg of Demerol to patient J. J. at 4:00 a.m. on May 10, 1981. Respondent failed to sign out for this medication.

5. Respondent remedicated patient J. J. at 4:30 a.m. with an additional 50 mg of Demerol on May 10, 1981.

6. Respondent obtained no medical authorization for the administration of the 4:30 a.m. injection, which was in contravention of the patient's medical orders.

COUNT II

7. Respondent diverted the 4:00 a.m. and 4:30 a.m. dosages of Demerol referred to in paragraphs 4 and 5, above, for her personal use. Respondent falsified the patient records for J. J. in order to conceal this diversion.

COUNT III

8. On or about July 1, 1981, Respondent was working the P.M. shift as a L.P.N. at River Hills West Nursing Home, 321 Riverside Drive, Pewaukee, Wisconsin.

9. The registered nurse caring for patient A. T. on that date instructed the Respondent to inform her when A. T. needed his pain medication, as the registered nurse wished to try an alternative to Demerol for pain.

10. In contravention of these instructions, Respondent medicated A. T. with 25 mg of Demerol at approximately 4:00 p.m. without conferring with the registered nurse in charge of this patient's case.

11. Patient A. T.'s medication orders indicated, inter alia, he was to receive "25 mgm Demerol q 4 hrs. PRN pain if respirations are depressed".

12. In contravention of the medication orders for A. T., Respondent remedicated the patient with 25 mg of Demerol at approximately 5:00 p.m., 7:30 p.m., and again at 7:45 p.m. on that date.

13. Respondent left the facility without charting the 7:30 p.m. and 7:45 p.m. administrations of medication to A. T.

COUNT IV

14. On or about June 21, 1982, Respondent obtained a thirty (30) day permit to work as a Licensed Practical Nurse in the State of Florida. This temporary permit was granted to Respondent in recognition of Respondent's Wisconsin Licensure.

15. Respondent continued to work as a Licensed Practical Nurse in Florida after expiration of her Temporary Permit and without additional Florida licensure, up through at least July 31, 1982, in violation of sec. 464.022(8) of the Florida Statutes Nurse Practice Act.

COUNT V

16. From July 19, 1982 and continuing through July 31, 1982, Respondent worked as a L.P.N. at Marian Community Hospital in Ocala, Florida. Respondent obtained this position at Marian Community Hospital on the basis of the Temporary Permit referred to in paragraph 14, above.

17. On July 23, 1982, Respondent signed out 50 mgm of Demerol for administration to a patient, Mrs. Mims.

18. Respondent failed to administer this medication to the patient.

19. Respondent diverted the 50 mg of Demerol referred to in paragraph 16, above, for her personal use.

COUNT VI

20. On or about July 30, 1982, Respondent was working as a L.P.N. on the 7:00 a.m. to 7:00 p.m. shift at Marian Community Hospital.

21. On that date Respondent removed without authorization one 10-count box of Meperidine Hydrochloride 100 mgm tubexes and one 10-count box of Meperidine Hydrochloride 75 mg tubexes from the narcotics drawer on her unit.

22. Respondent hid the Meperidine Hydrochloride referred to in paragraph 21 above in the nurse's cloak room, and subsequently denied knowledge of its whereabouts after the drugs were found missing.

23. Respondent removed the Meperidine Hydrochloride for her personal use.

24. Respondent failed to file an Answer to the Complaint filed herein, or to appear at the motion hearing held.

CONCLUSIONS OF LAW

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

2. Pursuant to Wis. Adm. Code sec. RL 2.14, the failure of the Respondent to file an Answer to the Complaint renders Respondent in default, and permits the Board of Nursing to make findings and enter an order based upon the Complaint and other evidence.

3. Respondent, by virtue of her conduct as described in paragraphs 5 and 6 of the Findings of Fact, has violated Wis. Stats. secs. 441.07(1)(c) and (d), and Wis. Adm. Code secs. N 11.03(1)(g) and (3)(b), and N 11.04(1).

4. Respondent, by virtue of her conduct as described in paragraph 7 of the Findings of Fact, has violated Wis. Stats. secs. 441.07(1)(c) and (d), and Wis. Adm. Code secs. N 11.03(3)(a), (b) and (c), and N 11.04(1).

5. Respondent, by virtue of her conduct as described in paragraphs 10 and 12 of the Findings of Fact, has violated Wis. Stats. secs. 441.07(1)(c) and (d), and Wis. Adm. Code secs. N 11.03(3)(b) and N 11.04(1).

6. Respondent, by virtue of her conduct as described in paragraph 15 of the Findings of Fact, has violated Wis. Stats. sec. 441.07(1)(d), and Wis. Adm. Code secs. N 11.03(3)(a) and N 11.04(1).

7. Respondent, by virtue of her conduct as described in paragraphs 17 and 18 of the Findings of Fact, has violated Wis. Stats. secs. 441.07(1)(c) and (d), and Wis. Adm. Code secs. N 11.03(1)(c) and (3)(a), (b) and (c), and N 11.04(1).

8. Respondent, by virtue of her conduct as described in paragraphs 21, 22 and 23 of the Findings of Fact, has violated Wis. Stats. secs. 441.07(1)(c) and (d), and Wis. Adm. Code secs. N 11.03(3)(b) and N 11.04(1).

ORDER

NOW, THEREFORE, IT IS ORDERED that Complainant's Motion for Default Judgment is granted.

IT IS FURTHER ORDERED, that the license of Mary Beth Nagel to practice as a licensed practical nurse (#12460) in the State of Wisconsin shall be, and hereby is, revoked, effective ten days following the date of the final decision of the Board of Nursing.

OPINION

The Respondent, Mary Beth Nagel, was charged with several counts of violating the statutes and administrative rules of the Board of Nursing. Ms. Nagel failed to file an Answer to the Complaint. Accordingly, Complainant filed a motion requesting that a default judgment be taken. Ms. Nagel did not appear at the hearing upon Complainant's motion. Complainant presented evidence establishing the truth of the allegations within the Complaint at the motion hearing, and, accordingly, the motion was granted.


The only issue in this case is the appropriate discipline, if any, to be taken by the Wisconsin Board of Nursing in light of the established misconduct of Ms. Nagel. Her actions constitute very serious violations. The failure of Ms. Nagel to respond to the Complaint or appear at the

motion hearing results in the failure of the record to contain any mitigating circumstances which she may have been able to bring forth. It must therefore be assumed that there are none.

In light of the serious violations found in this case, it is recommended that Ms. Nagel's license be revoked in order to assure the protection of the public.

Dated at Madison, Wisconsin this 24th day of February, 1984.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Donald R. Rittel", is written over a horizontal line.

Donald R. Rittel
Hearing Examiner

DRR:1mp
494-047