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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARY F. HALLORAN, L.P.N.,
RESPONDENT.

FINAL DECISION
AND ORDER

ORDER 0001634

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 F. Halloran.

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 18th day of September, 1985.

John J. Bartkowski
(PRP)

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

MARY F. HALLORAN, L.P.N., :
RESPONDENT. :

PROPOSED DECISION

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

Mary F. Halloran
3004 West Wells Street, #103
Milwaukee, Wisconsin 53208

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 hearing was held in the above-captioned matter on July 11, 1985 at 10:00 a.m. in Room 171 at 1400 East Washington Avenue, Madison, Wisconsin. Appearing at the hearing was Steven M. Gloe, attorney for the complainant. The respondent, Mary F. Halloran, L.P.N., did not appear nor did anyone appear on her behalf.

Based upon the record herein, the examiner recommends that the Board of Nursing adopt the following Findings of Fact, Conclusions of Law, and Order as its final decision.

FINDINGS OF FACT

1. Mary F. Halloran, L.P.N. (hereinafter "Respondent") is duly licensed in the State of Wisconsin as a licensed practical nurse (license #16517). This license was issued on August 1, 1975.

COUNT I

2. On or about October 23, 1983, Respondent illicitly diverted controlled substances from the patient supplies of her employer, Marina View Manor, 1522 North Prospect Avenue, Milwaukee, Wisconsin 53203. Respondent diverted the following substances: Tylenol #3 (Tylenol with

Codeine); Empirin #3 (aspirin with Codeine); and Noludar (methyprylon). The exact quantities that Respondent diverted of these drugs is not known.

3. Tylenol #3, Empirin #3, and Noludar are all controlled substances.

COUNT II

4. Respondent turned in falsified timeslips and patient charting to her employer, We Care Nursing Services, in order to obtain compensation for hours Respondent had not worked. Respondent falsely represented she had worked on the following dates: January 10, 16, 20, 23, 29, 30; February 6, 11, 12, 13, 19, 20, 24 and 27; March 7 and 8, all in the year 1985. Respondent received compensation totalling \$1,180.64 from We Care Nursing Services for these hours.

COUNT III

5. From December 20, 1984 through approximately February 1, 1985, Respondent worked as a pool nurse providing at-home care to patient E.H.

6. Patient E.H. continually received oxygen during this time. Signs were posted in the home alerting visitors to this situation and requiring no smoking.

7. On several occasions during this period, Respondent smoked while on duty, in spite of repeated warnings by patient's wife.

CONCLUSIONS OF LAW

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

2. By the conduct described in paragraph 2 of the Findings of Fact, Respondent is subject to disciplinary action against her license, pursuant to Wis. Stats. 441.07(1)(d) and Wis. Adm. Code sec. N 11.03(3)(a) and (b) and N 11.04(1).

3. By the conduct described in paragraph 4 of the Findings of Fact, Respondent is subject to disciplinary action against her license, pursuant to Wis. Stats. 441.07(1)(d) and Wis. Adm. Code sec. N 11.04(5).

4. By the conduct described in paragraph 7 of the Findings of Fact, Respondent is subject to disciplinary action against her license, pursuant to Wis. Stats. sec. 441.07(1)(c) and (d) and Wis. Adm. Code secs. N 11.03(1) and N 11.04(1).

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Mary F. Halloran to practice as a licensed practical nurse 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 F. Halloran, was originally charged with one count of unprofessional conduct regarding her diversion of controlled substances from her employer. At a prehearing conference, Ms. Halloran admitted diverting seven to eleven Tylenol #3, one Empirin #3, and one Noludar, but denied any diversion of Valium. See, Memorandum on Prehearing Conference dated February 15, 1985. The Findings of Facts regarding Count I and paragraph 2 of the Conclusions of Law are based upon Ms. Halloran's statements at that prehearing conference.

Subsequently, Ms. Halloran and complainant discussed a possible stipulation regarding an agreed upon disposition of the case. By letter dated April 1, 1985 the Board of Nursing informed the parties that the stipulation was unacceptable because,

"...(T)he Board concluded that there was insufficient information concerning any rehabilitation of the Respondent to justify the imposition of a limited license in her behalf."

"Based upon the current proposed findings, the Board would find it necessary for public protection to suspend the Respondent's license indefinitely until she can demonstrate she is capable of safely and competently practicing under a limited license."

After the Board's remanding of the matter to the parties, complainant filed a motion to amend the Complaint in order to allege two additional counts of unprofessional conduct against Ms. Halloran. These counts charged that Ms. Halloran falsified her timeslips with her employer, falsified patient records, and smoked while on duty in a home setting in which the patient was receiving oxygen and no smoking permitted.

Another prehearing was held, at which time complainant's motion to amend the Complaint was granted and Ms. Halloran admitted the allegations added to the Complaint. In addition, a date, time and place was established for the evidentiary hearing. The hearing was to be limited to the introduction of evidence bearing upon the appropriate discipline to be imposed in light of Ms. Halloran's admissions. See, Memorandum on Prehearing Conference dated June 25, 1985.

Ms. Halloran failed to appear at the hearing scheduled for June 11, 1985. Accordingly, the Findings of Fact and Conclusions of Law are based upon the allegations in the Amended Complaint as admitted by Ms. Halloran.

Complainant's attorney has recommended that respondent's license as a practical nurse be revoked. The examiner concurs. The record in this case is barren as to whether Ms. Halloran has undertaken any acts of rehabilitation or whether mitigating circumstances surrounded her conduct

as to justify any lesser sanction than otherwise appropriate under the facts. Ms. Halloran's conduct was serious, tending to place patients at risk given her falsification of patient charting and smoking in an area where oxygen was in use. This conduct, when combined with her diversion of controlled substances, requires that Ms. Halloran's license as a practical nurse be revoked in order to protect the public.

Dated at Madison, Wisconsin this 23rd day of July, 1985.

Respectfully submitted,


Donald R. Rittel
Hearing Examiner

DDR:jrb
3507