

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

MARILYN J. KELLEY, R.N., :
RESPONDENT. :

FINAL DECISION
AND ORDER

ORDER 0001701

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

Marilyn J. Kelley, R.N.
R.R. #1, Box 382
Hazel Green, WI 53811

Board of Nursing
P.O. Box 8936
Madison, Wisconsin 53708-8936

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8936
Madison, Wisconsin 53708-8936

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 petition in this instance would be captioned with Marilyn J. Kelley, R.N. as the respondent.

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.

The parties in this matter agree to the terms and conditions of the attached stipulation as the final disposition of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached stipulation and makes the following:

FINDINGS OF FACT

1. Marilyn J. Kelley, R.N. is duly licensed as a registered nurse in the State of Wisconsin (license #34298); this license was issued on December 5, 1958.

2. On or about April 14, 1984, Ms. Kelley diverted a quantity of Valium 5 mg tablets from the supplies of a patient assigned to her care.

3. On April 17, 1984, Ms. Kelley admitted herself for treatment at A.P.E.C. at Madison General Hospital.

4. On April 22, 1984, Ms. Kelley commenced in-patient treatment for alcoholism and drug abuse at Hazeldon Foundation in Center City, Minn. She completed in-patient treatment and was discharged on May 24, 1984, with aftercare through Unified Counseling Services in Platteville, Wisconsin. Counseling sessions were concluded on October 26, 1984 upon the advice of her counselor.

5. Ms. Kelley reported herself to the Board of Nursing on July 29, 1984.

CONCLUSIONS OF LAW

1. Marilyn J. Kelley, R.N., by the conduct described above, is subject to the imposition of disciplinary action against her license pursuant to Wis. Stats., sec. 441.07(1)(c) and (d).

Therefore, it is hereby ORDERED:

(a) The license of Ms. Kelley is suspended for a period of one year. The suspension shall be stayed pending the successful completion of the period of license limitation outlined in paragraph (b), below.

(b) The license of Ms. Kelley is limited as follows. Unless the Board specifically orders otherwise, all limitations shall extend for a period of two years from the date that each limitation becomes effective.

- i. Ms. Kelley must remain in a program acceptable to the board for the treatment of chemical dependency. As a part of her treatment, Ms. Kelley must attend therapy on a schedule as recommended by her therapist; attendance, however, shall be required at least one time per month. In addition, Ms. Kelley must attend Alcoholics Anonymous or Narcotics Anonymous at least one time per week.
- ii. Upon request of the board, Ms. Kelley must provide the Board with current releasee complying with state and federal laws, authorizing releases of her counseling, treatment, and/or monitoring records.
- iii. Ms. Kelley must remain free of alcohol and controlled substances not prescribed for a valid medical purposes during the period of limitation.

- iv. Ms. Kelley must participate in a program of random, supervised monitoring, on the basis of at least one time per week, for controlled substances and alcohol in her blood and/or urine. If the therapist supervising Ms. Kelley's plan of care deems that additional blood or urine screens are necessary, Ms. Kelley must submit to those screens.

Ms. Kelley shall be responsible for obtaining a monitoring facility and reporting system acceptable to the board, as well as for all costs incurred in conjunction with the monitoring and reporting required.

To be an acceptable program, the monitoring facility must agree to provide random and witnessed gatherings of specimens for evaluation. It must further agree to file an immediate report with the Board of Nursing upon such failure to participate as: if Ms. Kelley fails to appear upon request; or if a drug or alcohol screen proves positive; or if Ms. Kelley refuses to give a specimen for analysis upon the request of the monitoring facility.

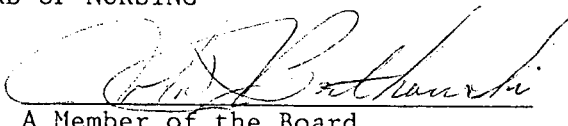
Ms. Kelley shall commence participation in a monitoring program immediately upon accepting health-care employment.

- v. Ms. Kelly shall inform the Board within five (5) days of any change in her employment status.
- vi. Ms. Kelley shall arrange for written quarterly reports to the Board of Nursing from her employer evaluating her work performance; from her monitoring facility providing the dates and results of the screenings performed; from her counselor, evaluating her attendance and progress in therapy; and from herself, reporting her attendance at A.A. or N.A. meetings.
- vii. Ms. Kelley may petition the board at any time during the limitation period to revise or eliminate any of the above conditions.
- viii. Violation of any of the terms of limitation of this order may result in summary suspension of Ms. Kelley's license, the imposition of the stayed portion of discipline, and/or the imposition of additional discipline.

(c) This order shall become effective fifteen (15) days following the date of its signing. In consideration of Ms. Kelley's regimen of treatment which commenced on April 17, 1984 the Board grants Ms. Kelley 14 months credit toward the period of limitation requiring therapy and AA/NA attendance.

BOARD OF NURSING

By:


A Member of the Board

7/19/85
Date

SMG:kcb
189-516

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF

MARILYN J. KELLEY, R.N.,
RESPONDENT.

:
:
: STIPULATION
:
:
:-----

It is hereby stipulated between Marilyn J. Kelley, R.N. personally on her own behalf and Steven M. Gloe, attorney for the Department of Regulation and Licensing, Division of Enforcement as follows:

1. This stipulation shall be presented to the Board of Nursing to form the basis for the Final Decision and Order in this matter.

2. Ms. Kelley understands that by the signing of this stipulation, she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, in which the state has the burden of proving the allegations by clear, satisfactory and convincing evidence; the right to confront and cross-examine witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; the right to file objections to any Proposed Decision and to present briefs or oral arguments to the officials who are to render the Final Decision; the right to petition for re-hearing; and all other applicable rights afforded to Ms. Kelley under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

3. Ms. Kelley agrees to the adoption of the attached Final Decision and Order by the Board of Nursing.

4. This stipulation is entered into as a result of a pending investigation of Ms. Kelley's licensure by the Division of Enforcement (case file #84 NURSE 68). Ms. Kelley consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

5. If the terms of the stipulation are not acceptable to the board, the parties shall not be bound by the contents of this stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings.

6. If the board accepts the terms of this stipulation, the parties to this stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

7. Ms. Kelley's current licensure card is attached to the stipulation. Upon acceptance of the stipulation by the Board of Nursing, the license

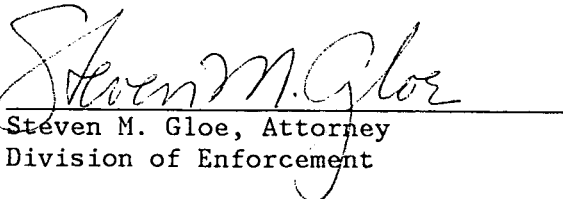
shall be re-issued with limitations in accordance with the attached Final Decision and Order. If the board does not accept the stipulation, the license of Ms. Kelley shall be returned to her with a notice of the Board's decision not to accept the stipulation.

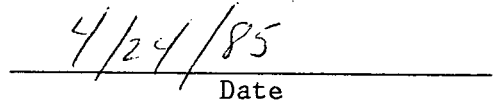
8. Also attached for the board's review in conjunction with the stipulation are copies of reports on her treatment and progress in treatment from Ms. Kelley's health care providers.

9. The Division of Enforcement joins Ms. Kelley in recommending the Board of Nursing adopt this stipulation and issue the attached Final Decision and Order.


Marilyn J. Kelley, R.N.


Date


Steven M. Gloe, Attorney
Division of Enforcement


Date

SMG:kcb
189-505