

## 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

MARY R. TOPPER, R.N.,  
RESPONDENT.

FINAL DECISION  
AND ORDER

ORDER 0001731

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

Mary R. Topper, R.N.  
346 East Lakeside  
Madison, Wisconsin 53715

Board of Nursing  
P.O. Box 8935  
Madison, Wisconsin 53708-8935

Department of Regulation & Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, Wisconsin 53708-8935

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 Mary R. Topper, 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. Mary R. Topper, R.N. (hereinafter Ms. Topper) is duly licensed in the state of Wisconsin as a registered nurse (license #57147); this license was issued on January 5, 1973.
2. At all times relevant to this action, Ms. Topper was working as a registered nurse in the emergency room at Madison General Hospital, 202 South Park Street, Madison, Wisconsin.
3. On exact dates unknown, but from approximately January, 1984 through March 20, 1985, Ms. Topper diverted from Madison General Hospital supplies quantities of cocaine for her personal use.
4. Ms. Topper falsified hospital records to cover for her diversion of cocaine from Madison General.

#### CONCLUSIONS OF LAW

By the conduct described above, Ms. Topper is subject to disciplinary action against her license pursuant to Wis. Stats. sec. 441.07(1)(c) and (d) and Wis. Adm. Code sec. 11.03(3)(a) and (b) and N 11.04(1).

Therefore, it is hereby ORDERED:

- (a) The license of Ms. Topper is SUSPENDED for a period of not less than two (2) years. The suspension shall be stayed for a period of three (3) months, conditioned upon compliance with the conditions and limitations outlined in paragraph (b), below.
  - i. Ms. Topper may apply for consecutive three month extensions of the stay of suspension, which shall be granted upon Ms. Topper's acceptable demonstration of compliance with the conditions and limitations imposed on Ms. Topper's practice during the prior three month period.
  - ii. If the Board denies a petition by Ms. Topper for an extension, the Board shall afford Ms. Topper an opportunity for a hearing in accordance with current regulations governing denial proceedings, upon timely receipt of request for hearing.
  - iii. Upon successful compliance for a period of two years with the terms of paragraph (b) below, the Board shall grant a petition by Ms. Topper for a return of full licensure.

- iv. In consideration of Ms. Topper's regime of treatment since June, 1985, the Board reduces the two year compliance period by 1 months.

(b) CONDITIONS OF STAY

- i. Ms. Topper must remain in a program acceptable to the Board for the treatment of chemical dependency. As a part of this treatment, Ms. Topper must attend therapy on a schedule that is recommended by her therapist; attendance, however shall be required at least two times per month. In addition, Ms. Topper must attend Alcoholics Anonymous or Narcotics Anonymous at least one (1) time per week.
- ii. Upon request of the Board, Ms. Topper must provide the Board with current releases complying with state and federal laws, authorizing release of her counseling, treatment and monitoring records.
- iii. Ms. Topper must remain free of alcohol and controlled substances not prescribed for a valid medical purpose during the period of limitation.
- iv. Ms. Topper must participate in a program of random, witnessed monitoring for controlled substances and alcohol in her blood or urine. Drug screens are required at least four times monthly. If the therapist supervising Ms. Topper's plan of care or her employer deems that additional blood or urine screens are warranted, Ms. Topper must submit to those screens.

Ms. Topper 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 failures to participate as: if Ms. Topper fails to appear upon request; or if a drug or alcohol screen proves positive; or if Ms. Topper refuses to give a specimen for analysis upon a request authorized under the terms of this order.

- v. Ms. Topper 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; and from her counselor evaluating her attendance and progress

in therapy as well as evaluating her level of participation at AA/NA meetings.

- vi. Ms. Topper shall report to the Board within five (5) days of any change in her employment status.
- (c) Ms. Topper may petition the Board in conjunction with any application for an additional stay to revise or eliminate any of the above conditions.
- (d) Violation of any of the terms of this order may results in the summary suspension of Ms. Topper's license; the denial of an extension of a stay of suspension; the imposition of additional conditions and limitations on Ms. Topper's practice; or the imposition of other additional discipline.
- (e) This order shall become effective ten (10) days following the date of its signing.

BOARD OF NURSING

By: Suzanne H. Schuler  
A Member of the Board

3/21/86  
Date

SMG:kcb  
940-558

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

-----  
IN THE MATTER OF THE LICENSE OF

MARY R. TOPPER, R.N.,  
RESPONDENT.

STIPULATION  
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It is hereby stipulated between Mary R. Topper, R.N. personally and by her attorney Lee Cullen, and Steven M. Gloe attorney for the Department of Regulation & Licensing, Division of Enforcement, as follows that:

1. This stipulation is entered into as a result of a pending investigation of Ms. Topper's licensure by the Division of Enforcement (case file #85 NURSE 42). Ms. Topper consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Ms. Topper 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, at which time the state has the burden of proving those allegations by clear, satisfactory and convincing evidence; the right to confront and cross-examine the 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 rehearing; and all other applicable rights afforded to Ms. Topper under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
3. Ms. Topper agrees to the adoption of the attached Final Decision and Order by the Board of Nursing.
4. If the terms of this 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.
5. If the Board accepts the terms of the stipulation, the parties to the stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.
6. Attached to this stipulation is the current licensure card of Ms. Topper. If the Board accepts the stipulation, her license shall be reissued in accordance with the terms of the attached Final Decision and

Order. If the Board does not accept this stipulation, the license of Ms. Topper shall be returned to her with the notice of the Board's decision not to accept the stipulation.

7. Also attached to this stipulation are copies of Ms. Topper's health care records for review by the Board in conjunction with their consideration of the attached Final Decision and Order.

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

2-14-86  
Date

Mary R. Topper, R.N.  
Mary R. Topper, R.N.

2/21/86  
Date

Steve Dettinger  
Steve Dettinger  
Attorney for Ms. Topper

2/25/86  
Date

Steven M. Gloe  
Steven M. Gloe, Attorney  
Division of Enforcement

SMG:kcb  
2506



Madison Family Institute

5706 Odana Road

• Madison, WI 53719 •

(608) 271-7780

February 25, 1986

Attorney Steven Gloe  
Department of Enforcement  
P. O. Box 8935  
Madison, WI 53708

Re: Mary Topper

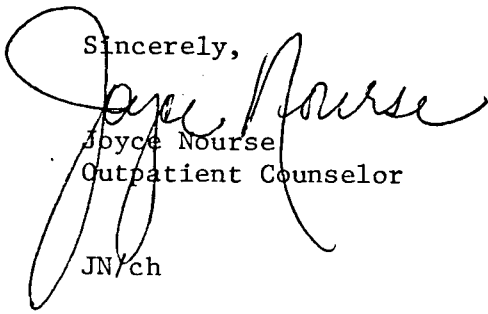
Dear Mr. Gloe:

Mary Topper completed the Day Medical Rehabilitation Program (DMR) on May 14, 1985. This six week Intensive Outpatient Program meets twice a week for three hours. During these three hour sessions the patients participate in group therapy sessions, educational lectures on Chemical Dependency and an Alcoholics Anonymous seminar. Ms. Topper also had weekly individual sessions for one hour. After completing the DMR, Ms. Topper attended weekly group therapy sessions for one hour on a monthly basis. Ms. Topper's current treatment plan is to attend individual and group sessions monthly.

Mary Topper has complied with the Madison Family Institute's recommended treatment plan and based on her continued progress, is competent to handle her current job responsibilities.

If I can provide you with any further information or clarification, please contact me.

Sincerely,



Joyce Nourse  
Outpatient Counselor

JN/ch

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**Madison Family Institute**

5706 Odana Road

• Madison, WI 53719 •

(608) 271-7780

March 6, 1986

Attorney Steve Gloe  
Department of Enforcement  
P.O. Box 8935  
Madison, WI 53708

Re: Mary Topper

Dear Mr. Gloe:

Mary Topper has set up a program of four random urine screenings per month with the Madison Family Institute. These tests began 2/26/86. The urine screening will be sent to Bayshore Clinical Laboratories, 5900 N. POH, Washington Rd., Milwaukee, WI. Mr. Gary McDermott, Bayshore Clinical Laboratories, stated that positive specimens are kept for two weeks and alternate confirming tests for cannabis and cocaine are done at Bayshore. However, positive alcohol specimens are not confirmed, because the laboratory would rather use blood tests for alcohol.

If Ms. Topper should not come to the Madison Family Institute for one of her urine screenings or if a specimen should test positive, I will inform Attorney Steve Gloe immediately.

If you have any questions or need further clarification, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Joyce Nourse". The signature is written over the typed name and title.

Joyce Nourse, MACAC  
Outpatient Counselor

JN/ah