

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

KATHERINE R. GIDIO, R.N.,
RESPONDENT

FINAL DECISION AND ORDER
91 NUR-19

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Katherine R. Gidio
c/o Attorney Kathleen Rauenhorst
Rauenhorst & Carlson
Rosedale Corporate Plaza
2665 Long Lake Road Suite 200
Roseville, MN 55113

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

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board of Nursing ("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. Katherine Gidio (D.O.B. 10/01/64) is a registered nurse licensed in the State of Wisconsin pursuant to license # 202141, having been so licensed since July 21, 1989.

2. Ms. Gidio's latest address on file with the Department of Regulation and Licensing is 1655 Oak Street, Cumberland, WI 54829

3. Ms. Gidio suffers from manic depressive illness and alcohol dependency, which conditions in the past have affected her ability to practice as a nurse.

4. By Stipulation and Consent Order, adopted and implemented on December 6, 1990, the Minnesota Board of Nursing disciplined Katherine Gidio's license to practice professional nursing in Minnesota by accepting the voluntary surrender of her license to practice based on conduct violative of the license law.

5. Since January, 1991, Ms. Gidio has shown progress as a result of treatment for her mental illness and alcohol dependency received from Northern Pines Unified Services Center.

CONCLUSIONS OF LAW

By the conduct described above, Katherine R. Gidio is subject to disciplinary action against her license to practice as a licensed registered nurse in the State of Wisconsin, pursuant to Wis. Stats. sec. 441.07(1)(c) and (d).

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Katherine R. Gidio shall be SUSPENDED for a period of not less than two (2) years.

IT IS FURTHER ORDERED that 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. Katherine R. Gidio may apply for consecutive three (3) month extensions of the stay of suspension, which shall be granted upon acceptable demonstration of compliance with the conditions and limitations imposed upon Ms. Gidio's practice during the prior three (3) month period.

ii. If the Board denies a petition by Ms. Gidio for an extension, the Board shall afford an opportunity for hearing in accordance with the procedures set forth in Wis. Adm. Code Ch. RL 1 upon timely receipt of a request for hearing.

iii. Upon a showing by Ms. Gidio of successful compliance for a period of two (2) years with the terms of paragraph (b), below, the Board shall grant a petition by Ms. Gidio for return of full licensure.

iv. In consideration of Ms. Gidio's regime of treatment set forth above, the Board reduces the two (2) year compliance period by 0 months.

(b) CONDITIONS OF STAY

i. Ms. Gidio must continue successful participation in a program for the treatment of chemical dependency at a health care facility acceptable to the Board. As a part of treatment, Ms. Gidio must attend counseling/therapy on a schedule as recommended by her health care provider; attendance, however, shall be required at least two (2) times per month in individual sessions and at least four (4) times per month in group sessions. In addition, Ms. Gidio must attend Alcoholics or Narcotics Anonymous at least one (1) time per week.

ii. Ms. Gidio must continue successful participation in a program for the treatment of her mental health problems at a health care facility acceptable to the Board. As a part of treatment, Ms. Gidio must remain under the care of psychiatrist, who will see her as required by her condition. In addition, Ms. Gidio must take any medications prescribed for the management of her condition.

iii. Upon request of the Board, Ms. Gidio shall provide the Board with current releases complying with state and federal laws, authorizing release of counseling, treatment and monitoring records, and employment records.

iv. Ms. Gidio shall remain free of alcohol, prescription drugs and controlled substances not prescribed for valid medical purposes during the period of limitation.

v. Ms. Gidio must participate in a program of random witnessed monitoring for controlled substances and alcohol in her blood and/or urine on a frequency of not less than four (4) times per month. If the physician or therapist supervising her plan of care or her employer deems that additional blood or urine screens are warranted, Ms. Gidio shall submit to such additional screens.

Ms. Gidio 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 required monitoring and reporting.

To be an acceptable program, the monitoring facility shall agree to provide random and witnessed gatherings of specimens for evaluation. The facility must agree to maintain a custody record of all specimens, and to confirm positive test results with gas chromatography or mass spectrometry. It shall further agree to file an immediate report directly with the Board of Nursing upon such failures to participate as: if Ms. Gidio fails to appear upon request; or if a drug or alcohol screen proves positive; or if Ms. Gidio refuses to give a specimen for analysis upon a request authorized under the terms of this Order.

vi. Ms. Gidio must practice as registered nurse in Wisconsin under the conditions set forth below (The Board is authorized to delete A or B, or both, and complete C if necessary):

A. At all times when Ms. Gidio is practicing, another registered nurse must be in charge, and immediately available to direct operations and supervise Ms. Gidio. Availability by telephone will not satisfy this requirement.

vii. Ms. Gidio shall arrange for quarterly reports to the Board of Nursing from her employer evaluating her work performance; from the monitoring facility providing the dates and results of the screenings performed; and from her therapist or other health care provider evaluating Ms. Gidio's attendance and progress in therapy, as well as evaluating her level of participation at NA/AA meetings.

viii. Ms. Gidio shall report to the Board any change in employment status, change of residence address or phone number, within five (5) days of any such change.

(c) Ms. Gidio 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 result in a summary suspension of Ms. Gidio's license; the denial of an extension of the stay of suspension; the imposition of additional conditions and limitations; or the imposition of other additional discipline.

(e) This Order shall become effective upon the date of its signing.

BOARD OF NURSING

By: Jacqueline Johnson RN Date 6/28/91
A Member of the Board

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

JUN 27 1991

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

KATHERINE R. GIDIO, R.N.,
RESPONDENT

STIPULATION
91 NUR 19

It is hereby stipulated between Katherine R. Gidio ("Respondent"), personally on her own behalf and Richard Castelnuovo, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending disciplinary action against Respondent by the Division of Enforcement. Respondent consents to the resolution of this action without further proceedings by submission of this Stipulation directly to the Board of Nursing ("Board").

2. Respondent is aware and understands her rights with respect to disciplinary proceedings, including the right to a statement of the allegations against her; the right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel attendance of witnesses 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 her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent voluntarily and knowingly waives the rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.

4. Respondent is aware of her right to seek legal representation and has obtained legal advice prior to execution of this Stipulation.

5. With respect to the attached Final Decision and Order, Respondent does not contest this matter, and agrees that the Board may find the facts set forth in the Findings of Fact, reach the conclusions set forth in the Conclusions of Law and enter the Order suspending her license and staying the suspension with limitations, ~~except that she reserves the right to be heard by the Board on the following issues concerning the limitation of her license:~~

~~a. The second paragraph, part iv of the Order concerning the reduction of the two (2) year compliance period.~~

~~b. Paragraph (b), CONDITIONS OF STAY, part vi of the Order concerning the degree of supervision during the period of limitation.~~

6. ~~Concerning a hearing on the issues set forth in 5a and 5b, Respondent conditions this Stipulation on the right to a hearing before the Board on these issues in accordance in par. 10. Respondent understands~~

~~and agrees that if she is accorded such a hearing, the Board in their discretion make the final decision concerning these issues and may complete the Final Decision and Order by granting credit, if any, for treatment received and using the alternatives stated in the Order to determine the degree of supervision required.~~

7. Respondent acknowledges and agrees that she may not seek to withdraw this Stipulation based on the Board's decision concerning the limitations to be placed on her license.

8. Respondent and her attorney acknowledge that no threats, promises, representations or other inducements have been made, nor agreements reached, other than those set forth in this Stipulation, to induce Respondent to enter into this agreement.

9. If the terms of this Stipulation are not acceptable to the Board, and specifically in the event that the parties are not permitted to appear before the Board for the purposes set forth in pars. 5 and 6, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

10. If the Board accepts the terms of this 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.

11. Attached to this Stipulation is the current licensure card of Respondent Katherine R. Gidio. If the Board accepts the Stipulation, Respondent's 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 Respondent's license shall be returned to him with a notice of the Board's decision not to accept the Stipulation.

~~10. The parties to this Stipulation agree that the attorney for the Division of Enforcement, Respondent and Respondent's counsel may appear before the Board for the following purposes:~~

- ~~a. Speaking in support of this agreement, except as noted in b. below;~~
- ~~b. Submitting oral argument on the following issues relating to the limitation of Respondent's license: the period of limitation and the degree of supervision; and~~
- ~~c. Answering questions that the members of the Board may have in connection with their deliberations on the Stipulation.~~

11. Also attached to this Stipulation are copies of Respondent's health care records for review by the Board in conjunction with their consideration of the attached Final Decision and Order.

12. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order, subject to the Board's determination concerning the period of limitation and the degree of supervision required.

Katherine R. Gidio
Katherine R. Gidio, R.N.

June 18, 91
Date

Rich Castelnovo
Richard Castelnovo, Attorney
Division of Enforcement

June 27, 1991
Date

NOTICE OF APPEAL INFORMATION

**(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)**

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Board of Nursing.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Board of Nursing

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Board of Nursing.

The date of mailing of this decision is July 10, 1991.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employee trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions

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