

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JULIE ETHEL HORN, L.P.N.,
RESPONDENT

:
:
:
:
:

FINAL DECISION AND ORDER

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

Julie Ethel Horn
1223 West 4th Street
Duluth, MN 55806

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. 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. Julie Ethel Horn, L.P.N. (D.O.B. 09/12/55) is duly licensed as a practical nurse in the state of Wisconsin (license # 30332). This license was first granted on August 15, 1990.
2. Ms Horn's most recent address on file with the Wisconsin Board of Nursing is 1223 West 4th Street, Duluth, MN 55806.
3. On or about June 6, 1991, the Minnesota Board of Nursing took disciplinary action against Ms. Horn's license to practice as a practical nurse and accepted the voluntary surrender of Ms. Horn's Minnesota nursing license. A true and correct copy of the Minnesota Stipulation and Consent Order is attached to and incorporated by reference in this Order.

CONCLUSIONS OF LAW

By the conduct described above, Julie Ethel Horn is subject to disciplinary

action against her license to practice as a practical nurse in the state of Wisconsin, pursuant to Wis. Stats. §441.07(1) and Wis. Adm. Code §N7.04(7) and (15).

NOW, THEREFORE, IT IS HEREBY ORDERED that the State of Wisconsin Board of Nursing accepts the VOLUNTARY SURRENDER of the license of Julie Ethel Horn (# 30332).

IT IS FURTHER ORDERED that should Ms. Horn reapply for Wisconsin licensure, the Board may in its sole discretion determine whether, and under what terms and conditions, this license may be reissued.

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

BOARD OF NURSING

By: Jacqueline Johnson RN MS 3/6/92
A Member of the Board Date



MINNESOTA BOARD OF NURSING

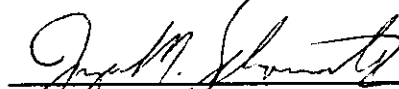
2700 University Avenue West #108 St. Paul, MN 55114 Telephone: (612) 642-0567

I, Joyce M. Schowalter, Executive Director of the Minnesota Board of Nursing, do hereby certify that I am the Custodian of the Records of the Minnesota Board of Nursing and that the attached documents in the matter of Julie Ethel Horn, L.P.N. are true and correct copies of said documents as they appear among the files and records in the Minnesota Board of Nursing office. The documents are kept in the regular course of business of the Minnesota Board of Nursing and were prepared as a matter of routine business practice of the Board.

WITNESS, my hand and seal of the Minnesota Board of Nursing this 21 day of October, 1991.

MINNESOTA BOARD OF NURSING

By:


Joyce M. Schowalter
Executive Director

S E A L

Subscribed and sworn to before me this

1st day of October, 1991.


Signature - Notary

My commission expires:

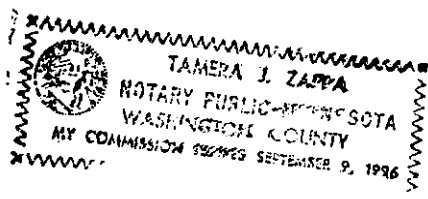


EXHIBIT A

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE THE MINNESOTA
BOARD OF NURSING

In the Matter of
Julie E. Horn, LPN
License No. 41406

STIPULATION AND
CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by Julie E. Horn, LPN (hereinafter "Licensee"), and the Minnesota Board of Nursing (hereinafter "Board") that without trial or adjudication of any issue of fact or law herein and without any evidence or admission by any party with respect to any such issue:

1. On October 30, 1990, a Notice of Conference with Board of Nursing Review Panel was duly served upon Licensee, receipt of which is hereby acknowledged by Licensee;
2. On December 4, 1990, Licensee appeared before the Board Review Panel composed of Laura Trimbo, Board member, and Carol Manteuffel, Associate Director of the Board, to discuss allegations made in the notice referenced above. Audrey Kaiser Manka, Special Assistant Attorney General, represented the Board at the conference. Since the conference, Licensee has been represented by David W. Adams;
3. Licensee expressly waives the formal hearing and all other procedures before the Board to which she may be entitled under the Minnesota and/or United States constitutions, statutes, or rules;
4. This Stipulation and Consent Order shall constitute the entire record herein and shall be filed with the Board prior to its next meeting;
5. In the event the Board in its discretion does not approve this settlement or a lesser remedy than indicated in this settlement, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party.

Licensee agrees that if the Board rejects this stipulation and this case proceeds to hearing, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating hereto;

6. Licensee admits the facts referred to below and grants that the Board may, for the purpose of reviewing the record in paragraph 4 above, consider the following as true without prejudice to her in any current or future proceeding of the Board with regard to these or other allegations:

a. While licensee was enrolled in a practical nurse refresher course at Duluth Technical College, Duluth, Minnesota, May 1990, the following occurred:

1) Licensee's adjustment to clinical was very slow and, at times, her nervousness hindered her ability to provide care to patients. Licensee admitted that she was slow and stated that when she was in nursing school she was also told that she was slow;

2) Two weeks into clinical, other students were responsible for two patients. At this same point, Licensee was unable to competently complete basic morning cares for one patient, neglected to give a medication, failed to take vital signs when patient returned from physical therapy, and failed to report off to a team leader when leaving for lunch to ensure that her patients were taken care of. Licensee admitted that she failed to administer Sinemet to a patient and stated that when leaving for lunch she informed the instructor that she was leaving for lunch and also left a message at the nurse's station informing the team leader that she was leaving for lunch.

J.N.
Licensee stated that she reported to her instructor that the patient had been out of the room or was asleep when licensee appeared to provide basic morning cares, administer medication and take vital signs. When Licensee asked if she should wake the patient to go through these procedures, the instructor told her not to.

b. Licensee was not allowed to complete the refresher course after staff refused to take responsibility for her in a clinical setting;

c. At the conference, Licensee stated that she has not worked in a hospital setting since she graduated from her nursing program in 1975. In addition, Licensee stated that she plans on practicing in a home health care setting and not in a hospital setting;

d. By Letter dated March 19, 1991, Licensee's attorney informed the Board that Licensee wanted to surrender her license since she will be moving from the state.

7. Licensee admits and acknowledges that the facts and conduct specified in paragraph 6 above constitute a violation of Minn. Stat. § 148.261 (1990) and justify revocation of, or other disciplinary action, to her license and constitute a reasonable basis in law and fact to justify the disciplinary action provided for in the order;

8. Licensee acknowledges and admits that proof at hearing of any one or more of the allegations set forth in the notice, including proof by the Board's introduction of admissions made by Licensee at the conference, would empower the Board to revoke or take other action against Licensee's license under Minn. Stat. § 148.261;

9. This stipulation shall not in any way or manner limit or affect the authority of the Board to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Licensee justifying disciplinary action which occurred before or after the date of this stipulation and which is not directly related to the specific facts and circumstances set forth herein;

10. Upon this stipulation and record, as set forth in paragraph 4 above, and without any further notice of proceedings, the Board may, in its discretion, accept the SURRENDER of Licensee's license to practice practical nursing in the State of Minnesota;

11. Licensee shall cease and desist from practicing practical nursing in any manner in the State of Minnesota and shall neither offer nor provide any practical nursing services of any nature within the state until such time as the full Board has completed a review of any allegations pending against her at the administrative level through a conference or hearing initiated pursuant to the Administrative Procedure Act;

12. Licensee shall not petition for reregistration of her license to practice practical nursing until such time as she meets with a Board Review Panel to review any allegations made against her and the Board Review Panel makes a recommendation to the full Board that the registration certificate be reissued to Licensee;

13. Licensee shall surrender to the Board her current nursing registration renewal certificate. Surrender shall be accomplished by delivering personally or by certified mail said certificate to the Minnesota Board of Nursing, c/o Joyce M. Schowalter, Executive Director, Suite 108, 2700 University Avenue West, St. Paul, Minnesota 55114, within five days after receipt by Licensee of this order;

14. The Board may, at any regularly scheduled meeting at which Licensee has appeared and presented evidence, take any of the following actions:

- a. Reissue a registration certificate to Licensee;
- b. Reissue a registration certificate to Licensee conditional upon further reports to the Board and/or restrictions placed upon the scope of Licensee's practice;
- c. Deny Licensee's request for reissuance of a registration certificate based upon her failure to meet the burden of proof.

15. Any appropriate court may, upon application of the Board, enter its decree enforcing the order of the Board;

16. Licensee's noncompliance with this order shall be considered a violation of Minn. Stat. § 148.261 (1990) and constitute grounds for further disciplinary action;

17. Licensee hereby acknowledges that she has read, understands, and agrees to this Stipulation and Consent Order and has freely and voluntarily signed the stipulation without threat or promise by the Board or any of its members, employees, or agents. When signing the stipulation, Licensee acknowledges that she is fully aware that the Stipulation and Consent Order must be approved by the Board. The Board may either approve the stipulation and/or order as proposed, approve the order subject to specified change, or reject it. If the changes are acceptable to Licensee, the stipulation will take effect and the order as modified will be issued. If the changes are unacceptable to Licensee or the Board rejects the stipulation, it will be of no effect except as specified herein;

18. If the Board receives evidence that Licensee has violated the terms of the order, has made misrepresentations to the Board or to those required to submit reports to the Board, and/or engaged in acts or omissions which would be a violation of Minn. Stat. § 148.261, the Board shall so notify Licensee in writing at her last known address filed with the Board. Licensee shall have the opportunity to contest the allegations by submitting a written request to so contest within 30 days after service of the Notice of Opportunity to Contest Allegations:

a. If Licensee does not submit a written request to contest the allegations within 30 days of service of the notice, the issues set forth in the notice may be taken as true or deemed proven without further evidence. Upon a report to the Board of such allegations and of Licensee's failure to contest, the Board may either impose additional disciplinary action, including revocation, or deny any petition submitted by Licensee. Any Board order issued under this paragraph shall be final and binding upon Licensee and shall not be subject to judicial or administrative review or to a judicial stay pending any attempts to seek such review;

b. If Licensee submits a written request to contest the allegations, the Board may initiate either a proceeding conducted pursuant to Minn. Stat. ch. 214 (1990) or a contested case hearing pursuant to Minn. Stat. ch. 14 (1990) to determine whether Licensee can show cause as to why additional disciplinary action should not be imposed. In any such proceeding, the Board shall have the burden of going forward to provide a sufficient factual basis supporting the allegations. The Board shall provide sufficient evidence to meet the substantial evidence standard used by appellate courts in reviewing administrative actions, that is, evidence demonstrating that the Board is not acting unreasonably, arbitrarily, or capriciously and that some reasonable evidence exists to support the allegations. Upon such a showing by the Board, the burden of proof as to why additional disciplinary action should not be imposed or why any petition for reinstatement should not be denied shall be upon Licensee.

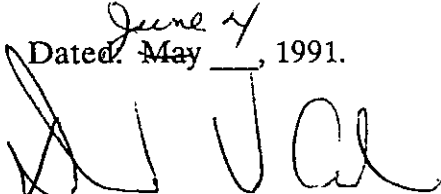
19. This stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this stipulation.

BOARD OF NURSING

REVIEW PANEL


JULIE E. HORN, LPN
Licensee


CAROL MANTEUFFEL
~~Board Member~~ Associate Director


Dated: ^{June 4} ~~May~~, 1991.

Dated: June 6, 1991.

DAVID W. ADAMS
Attorney for Licensee


AUDREY KAISER MANKA
Attorney for Board

Dated: ^{June 4} ~~May~~, 1991.

Dated: June 6, 1991.

Upon consideration of this stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the Board accepts Licensee's SURRENDER of her license to practice practical nursing in the State of Minnesota and that all other terms of this stipulation are adopted and implemented by the Board this 6th day of June, 1991.

MINNESOTA BOARD
OF NURSING


JOYCE M. SCHOWALTER
Executive Director

RECEIVED

92 FEB 17 AM 8:44

REGULATION & LICENSING

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
JULIE ETHEL HORN, L.P.N.,	:	
RESPONDENT	:	

It is hereby stipulated between Julie Ethel Horn, personally on her own behalf, and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered in resolution of the pending proceedings concerning Ms. Horn's license. The stipulation and order shall be presented directly to the Board of Nursing for its consideration for adoption.

2. Ms Horn 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 her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

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

4. 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. 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. Attached to this Stipulation is the current licensure card of Julie Ethel Horn. If the Board does not accept this Stipulation, the license of Ms Horn shall be returned to her with a notice of the Board's decision not to accept the Stipulation.

6. The parties to this stipulation agree that the attorney for the Division of Enforcement may appear before the Board of Nursing for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on

the stipulation.

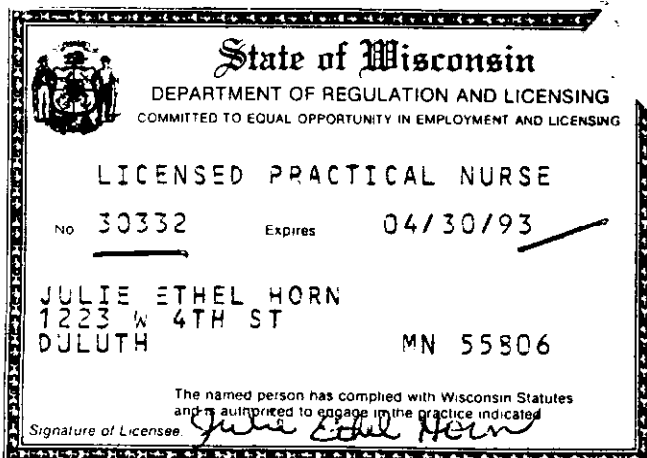
7. The Division of Enforcement joins Ms Horn in recommending the Board of Nursing adopt this Stipulation and issue the attached Final Decision and Order.

Julie Ethel Horn
Julie Ethel Horn, L.P.N.

2-13-92
Date

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

2.17.92
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 March 10, 1992.