

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

JOAN K. RISTEY, L.P.N.,
RESPONDENT

:
:
:
:
:

FINAL DECISION AND ORDER
91 NUR 086

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

Joan K. Ristey
1737 Schlimgen Avenue
Madison, WI 53704

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. Joan K. Ristey, L.P.N. (D.O.B. 12/17/43) is duly licensed as a practical nurse in the state of Wisconsin (license #4883). This license was first granted on June 7, 1963.
2. Ms. Ristey's most recent address known to the Wisconsin Board of Nursing is 1737 Schlimgen Avenue, Madison, WI 53704.
3. Ms. Ristey is suffering from the disease of chemical dependency.
4. On or about August 30, 1990, Ms. Ristey was assessed a forfeiture for driving a motor vehicle while intoxicated on a plea of no contest.
5. On or about January 21, 1991, Ms. Ristey appeared for work as a nurse at Mendota Mental Health Facility under the influence of alcohol and in an

unfit condition to perform nursing duties.

CONCLUSIONS OF LAW

By the conduct described above, Joan K. Ristey 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)(b), (c) and (d), and Wis. Adm. Code §§N7.03(2) and 7.04(15).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Joan K. Ristey (#4883) to practice as a practical nurse in the state of Wisconsin shall be SUSPENDED for an INDEFINITE PERIOD of time.

IT IS FURTHER ORDERED that Ms. Ristey may petition the Board at any time for a stay of the suspension of her licensure. The Board shall designate the board advisor assigned to this case to review and approve or deny a petition by Ms. Ristey under this section that is received between meetings of the Board. If a petition is received within two (2) weeks of a Board meeting, the petition will be placed on the Board's agenda and reviewed by the entire Board at its meeting. Denial in whole or in part of a petition for a stay shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. §§227.01(3) and 227.42.

Upon its determination that Joan K. Ristey can safely and competently return to the active practice of nursing, the Board may stay the suspension for a period of three (3) months, conditioned upon compliance with the conditions and limitations outlined in paragraph (b), below.

i. Joan K. Ristey 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. Ristey's practice during the prior three (3) month period.

ii. If the Board denies the petition by Ms. Ristey 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. Ristey of complete, successful and continuous compliance for a period of two (2) years with the terms of paragraph (b), below, Ms. Ristey may petition for return of full licensure. The Board may, in its discretion, require that Ms. Ristey complete at least six (6) months of nursing employment monitored under the conditions of paragraph (b) prior to the Board's issuance of a complete and unrestricted license.

(b) CONDITIONS OF STAY

i. Ms. Ristey shall maintain 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. Ristey must attend therapy on a schedule as recommended by her therapist; the Board may, however, in its discretion establish a minimum number of therapy sessions per month. In addition, Ms. Ristey must attend Alcoholics or Narcotics Anonymous at least one (1) time per week.

ii. Ms. Ristey shall maintain treatment for epilepsy or other health conditions that she may have which impact upon her ability to safely function as a nurse. Ms. Ristey shall comply with any work restrictions recommended by her health care providers.

iii. Upon request of the Board, Ms. Ristey 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. Ristey shall remain free of alcohol, prescription drugs and controlled substances not prescribed for valid medical purposes during the period of limitation.

v. Ms. Ristey 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. Ristey shall submit to such additional screens.

Ms. Ristey 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 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. Ristey fails to appear upon request; or if a drug or alcohol screen proves positive; or if Ms. Ristey refuses to give a specimen for analysis upon a request authorized under the terms of this Order.

vi. Ms. Ristey 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 counselor evaluating Ms. Ristey's attendance and progress in therapy as well as evaluating her level of participation at NA/AA meetings.

vii. Ms. Ristey shall refrain from access to or the administration of controlled substances in her work setting until such time as access or administration is approved by the Board.

viii. Ms. Ristey 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. Ristey 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 shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Ms. Ristey's license; the Board in its discretion may in the alternative deny an extension of a stay of suspension or impose additional conditions and limitations other additional discipline for a violation of any of the terms of this Order.

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

BOARD OF NURSING

By: Regueline Johnson RN MS 6/26/92
A Member of the Board Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
JOAN K. RISTEY, L.P.N.,	:	91 NUR 086
RESPONDENT	:	

It is hereby stipulated between Joan K. Ristey, 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. Ristey's license. The stipulation and order shall be presented directly to the Board of Nursing for its consideration for adoption.

2. Ms. Ristey 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 a preponderance of the 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. Ristey is aware of her right to seek legal representation and has obtained legal advice prior to signing this stipulation.

4. Ms. Ristey agrees to the adoption of the attached Final Decision and Order by the Board of Nursing. 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. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. 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. In the event that this 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.

6. Attached to this Stipulation is the current licensure card of Joan K. Ristey. If the Board does not accept this Stipulation, the license of Ms. Ristey shall be returned to her with a notice of the Board's decision not to

accept the Stipulation.

7. The parties to this stipulation agree that the attorney for the Division of Enforcement [and, if applicable, the member of the Board of Nursing assigned as an advisor in this investigation] 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.

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

Joan K. Ristey LPN
Joan K. Ristey, L.P.N.

5-5-92
Date

Susan J. M. Bauman
Susan J.M. Bauman
Attorney for Ms. Ristey

5-7-92
Date

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

5.8.92
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 July 2, 1992,