

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOELLE L. SULLIVAN, R.N.,
RESPONDENT.

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FINAL DECISION
AND ORDER
LS9212102NUR

The State of Wisconsin, Board of Nursing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

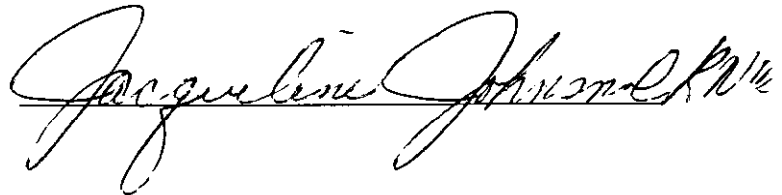
NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

The rights of a party aggrieved by this Decision to petition the board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 5 day of March, 1993.



STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JOELLE L. SULLIVAN, R.N.,
RESPONDENT.

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:
:

PROPOSED DECISION
LS9212102NUR

The parties to this proceeding for the purposes of Wisconsin Statutes,
sec. 227.53 are:

Joelle L. Sullivan, R.N.
P.O. Box 488
Belleville, MI 48112

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

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

This proceeding was commenced by the filing of a Notice of Hearing and Complaint on December 10, 1992. A hearing was held in the above-captioned matter on February 3, 1993. Attorney James W. Harris appeared on behalf of the Department of Regulation and Licensing, Division of Enforcement. Joelle L. Sullivan did not appear at the hearing.

Based upon the record herein, the Administrative Law Judge recommends that the Board of Nursing adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent, Joelle L. Sullivan, R.N., (d.o.b., 3/6/67) is licensed as a registered nurse in the State of Wisconsin (license #106250).
2. On April 29, 1992 respondent applied for registered nurse licensure in the State of Arizona. The Arizona State Board of Nursing granted Sullivan a temporary permit on April 30, 1992, which was valid until August 30, 1992.
3. On May 28, 1992, Sullivan surrendered her temporary permit to the Arizona State Board of Nursing, at which time she admitted to an individual at the office of the Arizona State Board of Nursing that she had diverted Demerol from Mesa General Hospital, but that she did not know how much Demerol she had diverted.

4. On June 18, 1992, the Arizona State Board of Nursing issued an order denying Sullivan's application for a license to practice as a professional nurse based upon its findings that Sullivan diverted 19 tubexes of Demerol 100 mg., while working at Mesa General Hospital from approximately May 13 to May 27, 1992. The Board also found that Sullivan was employed at Hearthstone of Mesa since June 1, 1992, and that she worked there on June 5, 6 and 7, 1992, during which time she signed out double doses of Tylenol #3, Darvocet and oral Morphine.

5. A copy of the Notice of Hearing and Complaint filed by the Department of Regulation and Licensing, Division of Enforcement, dated December 10, 1992, was served on respondent, by both regular and certified mail, on December 10, 1992, at her last known address on file with the Department of Regulation and Licensing.

6. Respondent did not file an Answer to the Notice of Hearing and Complaint filed in this matter and did not appear at the hearing held on February 3, 1993.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in this matter pursuant to sec. 441.07 (1) Wis. Stats., and s. N 7.04 Wis. Adm. Code.

2. A copy of the Notice of Hearing and Complaint filed in this matter was served on respondent, by regular and certified mail, on December 10, 1992, pursuant to s. RL 2.08 Wis. Adm. Code.

3. Respondent, Joelle L. Sullivan, R.N., by having engaged in the conduct described in Findings of Fact # 3-4, herein, violated s. 441.07 (1) (b) and (d) Stats., and s. N 7.04 (1), (2), and (6) Wis. Adm. Code.

4. Respondent, by failing to file an Answer to the Notice of Hearing and Complaint filed in the above-captioned matter, and by failing to appear at the hearing held in this matter on February 3, 1993, is in default, pursuant to sec. RL 2.14 Wis. Adm. Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license, #106250, granted to Joelle L. Sullivan, R.N., to practice as a registered nurse in the State of Wisconsin, be and hereby is, revoked.

IT IS FURTHER ORDERED that pursuant to s. 440.22 Wis. Stats., the cost of this proceeding shall be assessed against respondent, and shall be payable to the Department of Regulation and Licensing.

This order is effective on the date on which it is signed by the Board of Nursing or its designee.

OPINION

A hearing was held in the above-captioned matter on February 3, 1993. Attorney James W. Harris appeared on behalf of the Department of Regulation and Licensing, Division of Enforcement. The respondent, Joelle L. Sullivan, R.N., did not appear at the hearing. Complainant moved for an order granting default pursuant to s. RL 2.14 Wis. Adm. Code.

The Complaint alleges that Sullivan violated s. 441.07 Wis. Stats., and Wis. Adm. Code sec. N 7.04 (1), (2), (6) and (7) in that she engaged in a course of conduct resulting in disciplinary action through final board adjudication as set forth in the Arizona State Board of Nursing Order of Denial, No. 920608.

The evidence presented at the hearing establishes that Sullivan violated s. 441.07 (1) (b) and (d) Wis. Stats., by 1) violating a law substantially related to the practice of professional nursing, in violation of s. N 7.04 (1) Wis. Adm. Code; 2) obtaining drugs other than in the course of legitimate practice or as otherwise prohibited by law, in violation of s. N 7.04 (2) Wis. Adm. Code, and 3) falsifying or inappropriately altering patient records, in violation of s. N 7.04 (6) Wis. Adm. Code.

The evidence does not establish that Sullivan violated s. N 7.04 (7) Wis. Adm. Code, which prohibits a person from having disciplinary action through final board adjudication taken against his or her license in another jurisdiction. Although the evidence establishes that Sullivan surrendered her temporary permit to the Arizona State Board of Nursing, it does not establish that the Arizona Board took disciplinary action relating to her temporary permit.

The evidence also does not establish that Sullivan misrepresented her licensure status to her employer, Hearthstone, at the time she applied for employment. This issue was raised by the complainant at the hearing, but not specifically alleged in the Complaint as a violation of a provision contained in s. N 7.04 Wis. Adm. Code. The Arizona Board found that Sullivan was employed at Hearthstone at least from June 1, 1992, to June 7, 1992, and that she gave a copy of her temporary permit to personnel at Hearthstone when she applied for employment. The evidence does not establish when Sullivan applied for employment at Hearthstone, or whether she provided the personnel at Hearthstone with a copy of her temporary permit after she surrendered the "original" permit to the Arizona Board office.

Having found that Sullivan violated applicable provisions of ch. 441 Stats., and ch. N 7 Wis. Adm. Code, a determination must be made regarding whether discipline should be imposed, and if so, what discipline is appropriate.

The Administrative Law Judge recommends that Sullivan's license to practice as a registered nurse in the State of Wisconsin be revoked. This measure is designed primarily to assure protection of the public and to deter other licensees from engaging in similar misconduct.

The Board of Nursing is authorized under s. 441.07 (1) Wis. Stats., to revoke, suspend or limit the license of a registered nurse if it finds that the person has committed one or more violations of ch. 441 Stats., or any rule adopted by the board under ch. 441, Stats., or that the person has engaged in misconduct or unprofessional conduct.

The purposes of discipline by occupational licensing boards are to protect the public, deter other licensees from engaging in similar misconduct, and to promote the rehabilitation of the licensee. State v. Aldrich, 71 Wis. 2d 206 (1976). Punishment of the licensee is not a proper consideration. State v. MacIntyre, 41 Wis. 2d 481 (1969).

Sullivan applied for a license on April 29, 1992, to practice as a registered nurse in the State of Arizona. The Arizona State Board of Nursing granted her a temporary permit on April 30, 1992, which was valid until August 30, 1992. On May 28, 1992, less than one month after the Arizona Board granted her a temporary permit, she surrendered it to the Board. She admitted to an individual at the Board office that she had diverted Demerol from Mesa General Hospital where she worked, but that she did not know how much Demerol she had diverted. The Board found that Sullivan had diverted 19 tubexes of Demerol 100 mg., while working at Mesa General Hospital, and that she signed out for double doses of Tylenol #3, Darvocet and oral Morphine while working at Hearthstone.

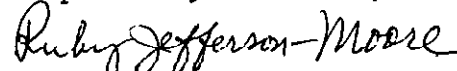
Sullivan has shown by her conduct that she is not capable of practicing as a nurse in a manner which assures protection of the public. Less than two weeks after the Arizona Board entrusted her with a permit and while her application for full licensure was still pending before that Board, she diverted controlled substances from her employer. By surrendering the permit to the Arizona Board, even she recognized the seriousness of her misconduct. Yet after surrendering her permit to the Arizona Board, she diverted controlled substances from a second employer by signing out for double doses of Tylenol #3, Darvocet and oral Morphine. It seems that she was determined to obtain the substances, with or without a permit.

The evidence presented does not establish why Sullivan diverted controlled substances. The order issued by the Arizona State Board of Nursing does not contain findings relating to Sullivan's consumption of controlled substances. Even so, the diversion of the controlled substances for whatever reason and alteration of the patient records constitutes a serious breach of trust.

Based upon the evidence presented and the discussions herein, the Administrative Law Judge recommends that the Board of Nursing adopt as its final decision in this matter, the proposed Findings of Fact, Conclusions of Law and Order as set forth herein.

Dated at Madison, Wisconsin this 9th day of February, 1993.

Respectfully submitted,


Ruby Jefferson-Moore
Administrative Law Judge

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 9, 1993.

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOELLE L. SULLIVAN, R.N.,
RESPONDENT.

AFFIDAVIT OF COSTS
LS9212102NUR

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Ruby Jefferson-Moore, being first duly sworn on oath deposes and states:

1. That affiant is an attorney licensed to practice law in the State of Wisconsin, and is employed by the Wisconsin Department of Regulation and Licensing, Office of Board Legal Services to provide legal services.

2. That in the course of her employment she was appointed administrative law judge in the above-captioned matter. That to the best of affiant's knowledge and belief the costs for services provided by the Office of Board Legal Services are as follows:

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u>
2/3/93	Preparation/conduct Hearing	30 min.
2/3/93	Review of record/draft decision	1 hr.
2/8/93	Review of record/draft decision	1 hr.
2/9/93	Draft proposed decision	30 min.

Total cost for Administrative Law Judge: \$57.00

Ruby Jefferson-Moore
Ruby Jefferson-Moore

Sworn to and subscribed to before me
this 15th day of March, 1993

James E. Polach
Notary Public
My Commission: 5 years permanent

BDLS2:2961

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	AFFIDAVIT IN SUPPORT
	:	OF MOTION FOR COSTS
JOELLE L. SULLIVAN, R.N.,	:	LS9212102NUR
RESPONDENT.	:	

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

James W. Harris, being duly sworn, deposes and states as follows:

1. That he is an attorney licensed in the state of Wisconsin and is employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement:
2. That in the course of those duties he was assigned as a prosecutor in the above-captioned matter; and
3. That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

PROSECUTING ATTORNEY EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
12/08/92	file review; prepare complaint	2.0
12/10/92	prepare notice of hearing, file	0.5
2/02/93	prepare for hearing; prepare exhibits	2.0
2/03/93	administrative hearing	1.0
	TOTAL TIME	5.5

INVESTIGATOR EXPENSE FOR STEVE ROHLAND

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
8/13/92	review file, prepare inquiry letters	0.5
9/16/92	attempt to locate respondent by letter	0.25
9/28/92	telephone conference employers, draft memo	0.30
10/12/92	telephone conference/letter employers	0.7

TOTAL TIME: 3.0

Total Investigator time of 3.0 hours at \$ 18.00 per hour
based upon average salary/benefit for DOE investigators----- \$ 54.00

James W. Harris, Attorney
Division of Enforcement

Roger Hall
Notary Public
my commission permanent