

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## **Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions**

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### **Please read this agreement prior to viewing the Decision:**

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

FILE COPY

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

---

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
JAYNE A. GARBADE, R.N.,	:	FINAL DECISION AND ORDER
RESPONDENT	:	92 NUR 196

---

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

Jayne A. Garbade  
5654 Maple Road  
West Bend, WI 53095

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. Jayne A. Garbade, R.N. (D.O.B. 07/04/55) is duly licensed as a registered nurse in the state of Wisconsin (license #102297). This license was first granted on August 25, 1989.

2. Respondent's most recent address on file with the Wisconsin Board of Nursing is 5654 Maple Road, West Bend, WI 53095.

3. At all times relevant to this action, respondent was working as a registered nurse for Sinai Samaritan Medical Center, 945 North 12th Street, Milwaukee, Wisconsin.

4. On or about September 27, 1992, respondent diverted four (4) tablets of Percocet™ (oxycodone hydrochloride) from her employer. Respondent signed out this medication for administration to patient A0 at 1500 and 1900 hours and charted administration of this medication on the patient's Medication Administration Record at 1900 hours only. A0 is comatose and did not have an order for Percocet.

5. On or about September 27, 1992, respondent signed out two (2) tablets of Percocet for administration to patient SP, but did not chart administration of this medication on the patient's Medication Administration Record.

6. On or about September 26, 1992, respondent signed out two (2) Percocet for administration to patient JM, but did not chart administration of this medication on the patient's Medication Administration Record.

7. In resolution of these proceedings, Ms. Garbade consents to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

By the conduct described above, Jayne A. Garbade is subject to disciplinary action against her license to practice as a registered nurse in the state of Wisconsin, pursuant to Wis. Stats. §441.07(1) and Wis. Adm. Code §§N7.03(1) and N7.04(1), (2) and (15).

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Jayne A. Garbade to practice as a nurse in the state of Wisconsin shall be SUSPENDED for an INDEFINITE PERIOD of time.

(a) IT IS FURTHER ORDERED that upon demonstration by Ms. Garbade that she has participated in a chemical dependency assessment which indicates that Ms. Garbade can safely perform nursing practice, 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. Jayne A. Garbade 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. Garbade's practice during the prior three (3) month period.

ii. If the Board denies the petition by Ms. Garbade 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. Garbade of complete, successful and continuous compliance for a period of two (2) years with the terms of paragraph (b), below, Ms. Garbade may petition for return of full licensure. The Board may, in its discretion, require that Ms. Garbade 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. Garbade must successfully complete a current assessment for

chemical dependency performed by David G. Benzer, MD at Addictive Disease Medical Consultants, Inc., 1220 Dewey Avenue, Wauwatosa, Wisconsin or at another health care facility acceptable to the Board. To be current, the assessment shall take place on a date within thirty (30) days from the date of submission of the assessment report to the Board. The assessing facility shall submit a written report of its findings directly to the Board, including: a diagnosis of Ms. Garbade's condition; recommendations (if any) for treatment; an evaluation of Ms. Garbade's level of cooperation in the assessment process; work restriction recommendations; and Ms. Garbade's prognosis. The assessment shall reflect that the facility has received and reviewed in conjunction with its assessment: 1) a copy of this order; 2) a copy of Ms. Garbade's prior (10/13/92) assessment at Addictive Disease Medical Consultants; and health and prescriptive records of Ms. Garbade's mother.

If the assessment reveals a need for treatment, Ms. Garbade shall enter and maintain successful participation in a program for the treatment of chemical dependency (or other therapy) at a health care facility acceptable to the Board. As a part of treatment, Ms. Garbade must attend therapy on a schedule as recommended by her therapist; attendance, however, shall be required at least four (4) times per month. In addition, Ms. Garbade must attend Alcoholics or Narcotics Anonymous at least one (1) time per week.

If the assessment recommends work restrictions in the field of nursing, Ms. Garbade shall restrict her practice in accordance with the recommendations of her assessment report.

- ii. Upon request of the Board, Ms. Garbade shall provide the Board with current releases complying with state and federal laws, authorizing release of counseling, treatment, monitoring and employment records.
- iii. Ms. Garbade shall remain free of prescription drugs and controlled substances not prescribed for valid medical purposes during the period of limitation. If the assessment reveals a diagnosis of chemical dependency, Ms. Garbade shall in addition remain free of alcohol during the period of limitation.
- iv. Ms. Garbade 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. The Board or its designated agent may alter this frequency in conjunction with the granting of a petition for a stay of suspension. If the physician or therapist supervising her plan of care or her employer deems that additional blood or urine screens are warranted, Ms. Garbade shall submit to such additional screens.

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

Ms. Garbade understands and agrees that the accuracy of the monitoring obtained is her responsibility. For the purposes of further actions affecting Ms. Garbade's license, it shall be presumed that all confirmed positive reports are valid. Ms. Garbade shall have the burden of proof to establish an error in testing or fault in chain of custody regarding a positive monitoring report.

- vi. Ms. Garbade shall provide her employer and any prospective employers with a copy of this Final Decision and Order immediately upon issuance of this Order, and upon any change of employment during the time in which a stay of suspension is in effect. In addition, Ms. Garbade shall provide her employer with a copy of any order granting an extension of stay under this Order within five (5) days of Ms. Garbade's receipt of an order granting a stay.

Ms. Garbade shall immediately provide her employer with a copy of any denial of an extension of stay under this Order.

- vi. Ms. Garbade shall arrange for quarterly reports to the nursing Examining Board from her employer evaluating her work performance; from the monitoring facility providing the dates and results of the screenings performed; and (if applicable) from her counselor evaluating Ms. Garbade's attendance and progress in therapy as well as evaluating her level of participation at NA/AA meetings.
- vii. Ms. Garbade 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. Garbade 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. Garbade may petition the Board in conjunction with any application for an additional stay to revise or eliminate any of the above conditions. Denial in whole or in part of a petition under this paragraph 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.

(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. Garbade's license: the Board in its discretion may in the alternative deny an extension of the 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 on a date thirty (30) days following the date of its signing.

BOARD OF NURSING

By: Jacqueline Johnson RN MS 11-5-93  
A Member of the Board Date

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

---

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
JAYNE A. GARBADE, R.N.,	:	92 NUR 196
RESPONDENT	:	

---

It is hereby stipulated between Jayne A. Garbade, 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 into in resolution of the pending proceedings concerning Ms. Garbade's license. The stipulation and order shall be presented directly to the Board of Nursing for its consideration for adoption.

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

4. Ms. Garbade 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.

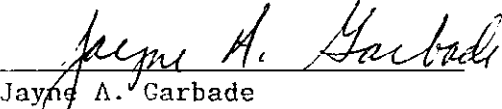
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties 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 Jayne A. Garbade. If the Board accepts the Stipulation, Ms. Garbade'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 license of Ms. Garbade shall be returned to her with a notice of the Board's decision not to

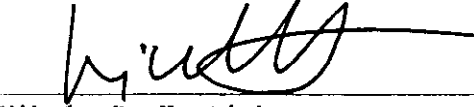
accept the Stipulation.

7. The parties to this stipulation agree that the attorney for the Division of Enforcement and 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. Garbade in recommending the Board of Nursing adopt this Stipulation and issue the attached Final Decision and Order.

  
Jayne A. Garbade

10-14-93  
Date

  
Nikola P. Kostich  
Attorney for Ms. Garbade

10-14-93  
Date

  
Steven M. Gloe  
Division of Enforcement

10.15.93  
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 November 9, 1993.**