

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

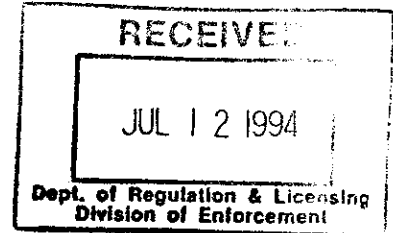
IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
Dannie K. McCarthy, R.N.,	:	93 NUR 019 & 93 NUR 199
RESPONDENT.	:	

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

Dannie K. McCarthy
3751 E. Becker Road
Oak Creek, WI 53154

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. 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. Dannie K. McCarthy, (D.O.B. 5/23/66) is duly licensed in the State of Wisconsin as a registered nurse (license # 109450). This license was first granted on March 20, 1992.
2. Respondent's latest address on file with the Department of Regulation and Licensing is 10110 South Shepard Avenue, Oak Creek, WI 53154. However, Respondent's current address is 3751 E. Becker Road, Oak Creek, WI 53154

3. On January 28, 1993, while on duty as a registered nurse at St. Michaels Hospital, Milwaukee, Wisconsin, Respondent removed three syringes containing 135 cc of Demerol from a narcotics cabinet and injected the drugs. Respondent became impaired and was taken to an emergency room for treatment.

4. On April 26, 1993, while on duty as an emergency room registered nurse at Northwest General Hospital, Milwaukee, Wisconsin, Respondent abandoned his duty station for forty five minutes. When Respondent returned to his duty station he was disoriented and incoherent. A narcotic count revealed a box of Demerol was missing. Respondent admitted taking and ingesting the drugs, and this was confirmed by a laboratory test.

5. On September 19, 1993, while on duty as a "pool nurse" at Trinity Memorial Hospital, Cudahy, Wisconsin, Respondent signed out injectable Demerol for patients 169930, 91993, and 229421. There was no physician order authorizing the medications, and the drugs were not administered to the patients. Respondent could not explain the disposition of the drugs, but did admit to a chemical dependence.

6. Respondent has participated in the following treatment for his chemical dependence:

Milwaukee Mental Health Complex outpatient treatment 4/26/93 - 1/24/94;

Hazeldon Foundation inpatient treatment 1/29/94 - 2/28/94;

Progress Valley IV outpatient treatment 3/1/94

7. Respondent is diagnosed as chemically dependent to opiates, opioid types, cocaine, barbiturates, sedatives, hypnotics, alcohol and cannabis.

CONCLUSIONS OF LAW

By the conduct described above, Dannie K. McCarthy is subject to disciplinary action against his license to practice as a registered nurse in the State of Wisconsin, pursuant to Wis. Stats. sec. 441.07(1)(c) and (d), and Wis. Adm. Code secs. N7.03(2) and 7.04(1), (2) and (15).

ORDER

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

(a) IT IS FURTHER ORDERED that after a period of six (6) months from the date of this Order, and upon filing with the Board of Nursing certification of successful continuing treatment of his chemical dependence, Respondent may apply for a STAY of the SUSPENSION for a period of three (3) months, conditioned upon compliance with the conditions and limitations outlined in paragraph (b), below. This privilege is granted as a reasonable accommodation to Respondent's condition.

i. Respondent 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 Respondent's practice during the prior three (3) month period.

ii. If the Board denies the petition by Respondent 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 Respondent of complete, successful and continuous compliance for a period of two (2) years with the terms of paragraph (b), below, the Board shall grant a petition by Respondent for return of full licensure. The board may, in its discretion, require that Respondent 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. Respondent must remain in a program acceptable to the Board for the treatment of alcohol and chemical dependency. As a part of treatment, Respondent must attend therapy on a schedule as recommended by his therapist; attendance, however, shall be required at least 4 times per month. In addition, Respondent must attend Alcoholics or Narcotics Anonymous at least 2 time(s) per week.

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

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

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

Respondent 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 Wisconsin Board of Nursing upon such failures to participate as: if Respondent fails to appear upon request; or if a drug or alcohol screen proves positive; or if Respondent refuses to give a specimen for analysis upon a request authorized under the terms of this Order.

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

v. Respondent shall provide his 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. In addition, Respondent shall immediately provide his employer with a copy of any denial of an extension of stay under this Order.

vi. Respondent shall arrange for quarterly reports to the Wisconsin Board of Nursing from his employer evaluating his work performance; from the monitoring facility providing the dates and results of the screenings performed; and from the counselor evaluating his attendance and progress in therapy as well as evaluating his level of participation at NA/AA meetings.

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

viii. Respondent 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) Respondent 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 Respondent'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 be come effective upon the date of its signing.

WISCONSIN BOARD OF NURSING

By: Januel Johnson MS 7/8/94
On behalf of the Board Date