

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

SANDRA R. PHIPPS, R.N.,
RESPONDENT.

FINAL DECISION
AND ORDER
LS9310121NUR

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

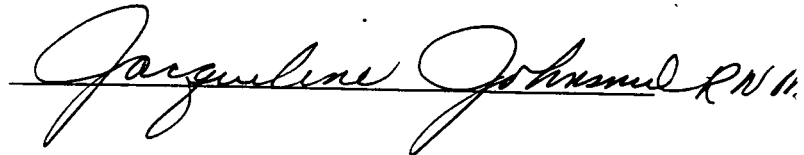
NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing.

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 department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 4 day of March, 1994.

 Jacqueline Johnson RN

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

SANDRA R. PHIPPS, R.N.,
RESPONDENT.

PROPOSED DECISION
LS9310121NUR

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

Sandra R. Phipps
Taycheedah Correctional Institution
N7139 County Road K
Fond du Lac, Wisconsin 53074

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 October 12, 1993. A hearing was held in the above-captioned matter on December 15, 1993. Attorney Steven M. Gloe appeared on behalf of the Department of Regulation and Licensing, Division of Enforcement. Sandra R. Phipps 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, Sandra R. Phipps, R.N. (d.o.b., 12/12/42), Taycheedah Correctional Institution, N7139 County Road K, Fond du Lac, WI., is duly licensed as a registered nurse in the State of Wisconsin. Respondent's license (#70018) was first granted on March 20, 1978.

2. Respondent was convicted on May 7, 1993 of two felony counts of concealing stolen property in violation of s. 943.34 (1) (c), Wis. Stats.

3. Respondent's conviction for concealing stolen property stems from her conduct in selling a storekeeper jewelry, valued at over \$120,000, which had been taken from the residence of at least two patients for whom respondent had been employed as a live-in nurse. The jewelry was taken from the patients' residence without their consent.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in this matter pursuant to s. 441.07 (1) Wis. Stats., and s. N7.04 (1), (12) and (15) Wis. Adm. Code.

2. Respondent, Sandra R. Phipps, R.N., by having been convicted of a crime, as described in Findings of Fact #2 herein, the circumstances of which substantially relate to the practice of a registered nurse, violated s. 441.07 (1), Stats., and s. N7.04 (1) and (15) Wis. Adm. Code.

3. Respondent, by engaging in conduct as described in Findings of Fact #3 herein, obtained something of value from a patient without the patient's consent, in violation of s. 441.07 (1), Stats., and s. N7.04 (12) and (15), Wis. Adm. Code.

4. Respondent, by failing to file an Answer to the Complaint filed in the above-captioned matter, and by failing to appear at the hearing held in this matter is in default, pursuant to s. RL 2.14 Wis. Adm. Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license, #70018, granted to Sandra R. Phipps, R.N., on March 20, 1978, 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

The Complaint alleges that Phipps violated s. 441.07 (1) Wis. Stats., and s. N7.04 (1), (12) and (15), Wis. Adm. Code, by violating a law substantially related to the practice of professional or practical nursing; obtaining or attempting to obtain anything of value from a patient without the patient's consent, and by violating a rule of the board.

The evidence presented establishes that Phipps violated s. 441.07 (1) Wis. Stats., and s. N7.04 (1), (12) and (15), Wis. Adm. Code by having been convicted of two counts of concealing stolen property. The stolen property had been taken from the residence of two patient for whom Phipps had been employed as a live-in nurse.

Having found that Phipps violated s. 441.07 (1), Stats., and s. N7.04 (1), (12) and (15), Wis. Admin. 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 Phipps 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), Stats., to revoke, suspend or limit the license of a registered nurse if it finds that the person has committed any of the violations specified in that section.

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).

In October, 1992, Phipps sold at least eleven items of jewelry to the owner of Malicki Gold and Gems located in Mequon. According to the statement provided by the storekeeper to law enforcement officials, he paid Phipps almost \$35,000 for the eleven items. Several of the jewelry items sold to the storekeeper, including a pair of diamond cluster earrings appraised at \$120,000, were taken from the residence of two patients for whom Phipps had been employed as a live-in nurse. According to the statement provided by Phipps to investigating officials, the patient gave her the diamond cluster earrings. On November 2, 1992, the Ozaukee County District Attorney filed a criminal complaint against Phipps alleging that she concealed stolen property in violation of s. 943.34 (1)(c), Stats. She was convicted on May 7, 1993, of two felony counts of concealing stolen property.

Public trust is essential to the practice of professional nursing. Phipps has shown by her conduct that she cannot be trusted, and that she is not capable of practicing as a registered nurse in a manner which safeguards the interest of the public. The patients for whom she was employed as a live-in nurse placed significant trust in her by providing her entry into their homes. She betrayed their trust by either stealing their valuables, or by transmitting pertinent information to other individuals regarding the existence and location of the valuables. Revocation of Phipps' license to practice as a registered nurse is the only viable measure available to the Board to assure that other patients are not subjected to similar betrayals.

Based upon the evidence presented and upon consideration of the provisions contained in ss. 111.321, 111.322 and 111.335 (1)(c), Stats., as well as applicable caselaw, 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 10th day of January, 1994.

Respectfully submitted,

Ruby Jefferson-Moore

Ruby Jefferson-Moore
Administrative Law Judge

BDLS2:4083

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.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN BOARD OF NURSING.

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

MARCH 10, 1994.

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

SANDRA R. PHIPPS, R.N.,
RESPONDENT.

AFFIDAVIT OF COSTS
LS9310121NUR

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 affiant are as follows:

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u>
12/15/93	Preparation/conduct of hearing	30 min.
1/7/94	Review of record/draft decision	1 hr.
1/10/94	Review of record/draft decision	30 min.

Total cost for Administrative Law Judge: \$49.84

Ruby Jefferson-Moore
Ruby Jefferson-Moore

Sworn to and subscribed to before me
this 17th day of March, 1994

Daniel R. Ritt
Notary Public
My Commission: is Permanent

BDLS2:2961

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

SANDRA R. PHIPPS, R.N.,
RESPONDENT.

:
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:
:
:

AFFIDAVIT OF COSTS
92 NUR 206, LS-9310121-NUR

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Steven M. Gloe, being duly sworn, deposes and states as follows:

1. That I am an attorney licensed in the state of Wisconsin and am employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement:

2. That in the course of those duties I 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>
10/12/93	Review case file; prepare documents	2 hours 30 min.
12/14/93	Hearing preparation	30 min.
12/15/93	Hearing preparation; attend hearing	1 hour 15 min.
1/10/94	Review Proposed Decision	15 min.
TOTAL HOURS		<u>4 hours 30 min.</u>

Total attorney expense for
4 hour and 30 minutes at \$30.00 per hour
(based upon average salary and benefits
for Division of Enforcement attorneys) equals: \$ 135.00

INVESTIGATOR EXPENSE FOR STEVEN A. ROHLAND

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
11/18/92	Trip to Whitewater; draft memo	7 hours

12/23/92	Receive and review file	15 min.
1/12/93	Phone call; memo	20 min.
2/3/93	Phone call; memo	25 min.
3/4/93	Phone call; memo	25 min.
6/3/93	Phone call; memo; letter	35 min.
9/20/93	Case summary	1 hour

TOTAL HOURS


10 hours 00 min.

Total investigator expense for
 10 hours at \$18.00 per hour
 (based upon average salary and benefits
 for Division of Enforcement investigators) equals:

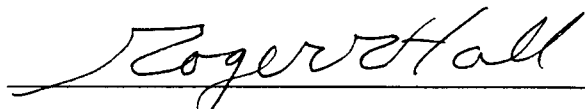
\$ 180.00

TOTAL ASSESSABLE COSTS

\$ 315.00


 Steven M. Gloe
 Attorney
 Division of Enforcement

Subscribed and sworn to before me this 8 day of April, 1994.


 Notary Public
 My Commission is permanent.