

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	:	
	:	FINAL DECISION AND ORDER
SANDRA A. TORBECK, L.P.N.,	:	93 NUR 232
RESPONDENT	:	

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

Sandra A. Torbeck
2129 South 108th Street #4
West Allis, WI 53074

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. Sandra A. Torbeck, L.P.N. (D.O.B. 09/12/4⁴~~8~~) is duly licensed as a practical nurse in the state of Wisconsin (license #21152). This license was first granted on November 28, 1978.

2. Respondent's most recent address known to the Wisconsin Board of Nursing is 2129 South 108th Street #4, West Allis, WI 53227.

3. On or about January 19, 1993, Ms. Torbeck was convicted on a plea of guilty to violation of Wis. Stats. §§ 161.16(2)(b)(1) and 161.41(lm)(c)(1). True and correct copies of the Criminal Complaint and Judgment of Conviction relating to this conviction are attached to this document as Exhibit A. Exhibit A is incorporated by reference into this Final Decision and Order.

4. In resolution of these proceedings, Ms. Torbeck surrenders her license to practice as a practical nurse in the state of Wisconsin and consents to

the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

By the conduct described above, Sandra A. Torbeck 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) and Wis. Adm. Code §N7.04(1), (2) and (15).

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Sandra A. Torbeck to practice as a practical nurse in the state of Wisconsin (#96752) shall be SUSPENDED for an INDEFINITE PERIOD of time.

IT IS FURTHER ORDERED that

(a) Ms. Torbeck may petition the Board at any time for a stay of the suspension of her licensure. In conjunction with a petition by Ms. Torbeck, the Board shall require a personal appearance by Ms. Torbeck, together with documentation of Ms. Torbeck's rehabilitation, such as: 1) documentation of continuous abstinence from the consumption of alcohol and controlled substances [unless prescribed for a legitimate medical purpose] by Ms. Torbeck for a period of at least thirty (30) days prior to submission of the petition; 2) documentation of current active participation in a program for the treatment of chemical dependency for a period of at least thirty (30) days prior to submission of the petition; 3) submission of a current chemical dependency assessment from a health care provider acceptable to the Board certifying that Ms. Torbeck is fit to safely return to practice as a nurse; and 4) submission of a statement from Ms. Torbeck's probation officer certifying her compliance with all terms of her probation and supporting her return to nursing practice.

To be considered current, the assessment shall occur within thirty (30) days from the date of its submission.

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.

(b) Upon its determination that Sandra A. Torbeck 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 conditions and limitations outlined in ¶c, below.

i. Sandra A. Torbeck 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. Torbeck's practice during the prior three (3) month period.

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

(c) CONDITIONS OF STAY

- i Ms. Torbeck shall maintain compliance with the terms of any probation or parole in effect against her and arrange for her probation officer to inform the Board of Nursing immediately of any action affecting the status of Ms. Torbeck's probation/parole.
- ii Ms. Torbeck shall maintain successful participation in a program for the treatment of chemical dependency (and other therapy as needed) at a health care facility acceptable to the Board. As a part of treatment, Ms. Torbeck 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. Torbeck must attend Alcoholics or Narcotics Anonymous at least one (1) time per week.

If her treatment provider recommends work restrictions in the field of nursing in addition to the restrictions included in this order, Ms. Torbeck shall restrict her practice in accordance with the recommendations of her treatment provider.

- iii Upon request of the Board, Ms. Torbeck shall provide the Board with current releases complying with state and federal laws, authorizing release of probation/parole, counseling, treatment, monitoring and employment records.
- iv Ms. Torbeck shall remain free of alcohol and prescription drugs and controlled substances not prescribed for valid medical purposes during the period of limitation.
- v Ms. Torbeck 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. Torbeck shall submit to such additional screens.

Ms. Torbeck 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. All urine screens shall include testing and reporting of the specific gravity of the urine specimen. 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. Torbeck fails to appear upon request; or if a drug or alcohol screen proves positive; or if the specific gravity of a urine specimen is below 1.008; or if Ms. Torbeck refuses to give a specimen for analysis upon a request authorized under the terms of this Order.

Ms. Torbeck shall appear and provide a specimen within a reasonable time following a request for a specimen, but in no event later than 24 hours following the time the request was made. The random drug and alcohol screening program shall include weekends and holidays for collection of specimens.

Ms. Torbeck understands and agrees that the accuracy of the monitoring obtained is her responsibility. For the purposes of further actions affecting Ms. Torbeck's license, it shall be presumed that all confirmed positive reports are valid. Ms. Torbeck 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. Torbeck 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. Torbeck shall provide her employer with a copy of any order granting an extension of stay under this Order within five (5) days of Ms. Torbeck's receipt of an order granting a stay.

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

- vii Ms. Torbeck shall arrange for quarterly reports to the nursing Examining Board from her probation officer ~~employer~~ certifying her compliance with the terms of her probation; 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. Torbeck's attendance and progress in therapy as well as evaluating her level of participation at NA/AA meetings.

- viii Ms. Torbeck 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.

- ix Ms. Torbeck 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. Torbeck 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. Torbeck'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

A Member of the Board

Date

1/28/94

STATE OF WISCONSIN }
Circuit Court, Milwaukee County } SS.

I, GARY J BARCZAK, Clerk of the Circuit

Court, Director of Court Services do hereby certify that I have compared the foregoing copy ies with the original JUDGEMENT

OF CONVICTION AND CRIMINAL COMPLAINT IN THE CASE OF THE STATE OF

WISCONSIN VS. SANDRA TORBECK

CASE #F-924146

entered in the action therein entitled, that it is a correct transcript therefrom and of the whole thereof as the same remains of record in my office

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed

the Seal of said Court, on December 2 1993

(Month, Day, Year)

Gary J Barczak

Clerk of the Circuit Court
Criminal Division

EX. A

COURT COPY
DO NOT REMOVE

STATE OF WISCONSIN

CIRCUIT COURT
CRIMINAL DIVISION

MILWAUKEE COUNTY

Page 1

STATE OF WISCONSIN, Plaintiff(s)

vs

TORBECK, SANDRA ANN 09/12/44
11020 W. Greenfield Ave., #106
West Allis, WI 53214

Defendant(s)

CRIMINAL COMPLAINT

CRIME(S) OR VIOLATION(S)

POSSESSION WITH INTENT TO DELIVER
CONTROLLED SUBSTANCE - COCAINE

STATUTE(S) OR ORDINANCE(S) VIOLATED

161.16(2)(b)(1), 161.41(1m)(c)(1)

COMPLAINING WITNESS

Thomas Baker

CASE NUMBER

F924146

THE ABOVE NAMED COMPLAINING WITNESS BEING DULY SWORN SAYS THAT THE ABOVE NAMED DEFENDANT(S) IN THE COUNTY OF MILWAUKEE, STATE OF WISCONSIN

On June 18, 1992, at 11020 W. Greenfield Ave., #106, City of West Allis, did knowingly possess with intent to deliver 10 grams or less, of cocaine, a controlled substance, contrary to Wisconsin Statutes sections 161.16(2)(b)(1) and 161.41(1m)(c)(1).

Upon conviction of this charge, defendant shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 5 years.

Complainant states that he is a City of West Allis Police Officer and makes this complaint based upon the following:

Complainant's personal reading of an official City of West Allis Police Department report prepared by City of West Allis Police Officer Detective Timothy Kriz and Officer Mark A. Rumler which your complainant, based upon his experience as a City of West Allis Police Officer knows to be of a type which is kept in the normal regular course of business by said police department and which is filed by City of West Allis Police Officers in pursuance of their official duties and which he has used in the past and found to be truthful and reliable, said reports indicating that on the above date at the above stated location, officers of the West Allis Police Special Investigation Unit executed a search warrant. At that location, Det. Sgt. Larry Warwick and Det. Timothy Kriz and Police Officer Mark Rumler investigated the scene. Evidence was collected by Police Officer Rumler. Rumler had confiscated in the bedroom of Sandra Torbeck, from her purse, 13 separate paper bindles of cocaine folds wrapped in a piece of toilet paper. The total weight of these packages was 2.8 grams. Also located inside a box on the top shelf of the closet of the master bedroom which was Sandra Torbeck's was an Ohaus triple beam scale, 2 magazines each containing corner cuts or squares, and further inside the purse of Torbeck's on top of the bed stand was found a white piece of paper with

TORBECK, SANDRA ANN - 09/12/44,

numbers known by Officer Rumler from his training and experience as drug numbers and possible corresponding dollar amounts. Further, from the top sliding drawer of a night stand on the other side of the bed was a large corner piece of plastic bag containing a white powdery residue. Officer Rumler knows from training and experience that these corner cuts commonly contain a controlled substance.

Further your complainant states that said report reflects that City of West Allis Police Officer Mark Rumler, whom your complainant knows to be experienced in the administration of the Cobalt Thiocyanate Field Test, subjected the above described white powdery material to a Cobalt Thiocyanate Field Test, which your complainant knows is used to determine the presence of cocaine and that the results of said test were consistent with the presence of cocaine. Further, the weight of these total substances was 2.8 grams.

Complainant states that he has read a report prepared by Det. Timothy Kriz who advised Sandra Torbeck of her Constitutional rights which she stated she understood and waived. Torbeck admitted that she had two sixteenths delivered to her apartment at two different times within the last several days for which she was charged a total of \$220. Torbeck claimed that they came packaged in quarters when she got them and were packaged for sale. They were in tissue paper in the purse so that Rodney wouldn't find them as he would just take the coke and use it all and Sandra wouldn't get any to sell. Further, Torbeck said that she repackaged the coke in paper or magazine folds. Sometimes her supplier would do this for her and it comes to the house pre-packaged. She sells the quarters for \$25 each.

Complainant further states that from his training and experience and his reading of these reports that the amount of cocaine that was found and the way it was packaged indicate that this was an amount that was used for distribution and trafficking of cocaine.

****END OF COMPLAINT****

SUBSCRIBED AND SWORN TO BEFORE ME
AND APPROVED FOR FILING November 12, 1992.


DEPUTY/ASST. DISTRICT ATTORNEY


COMPLAINING WITNESS

-- FELONY COMPLAINT --

CBEYEjal

State of Wisconsin, Plaintiff -vs- <u>Sandra Torbeck</u> Defendant <u>9-12-44</u> Defendant's Date of Birth	TYPE OF CONVICTION (Select One) <input type="checkbox"/> Sentence to Wisconsin State Prisons <input checked="" type="checkbox"/> Sentence Withheld, Probation Ordered <input checked="" type="checkbox"/> Sentence Imposed & Stayed, Probation Ordered COURT CASE NUMBER <u>F924146</u>
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The defendant entered plea(s) of: ☒ Guilty ☐ Not Guilty ☐ No ContestThe ☒ Court ☐ Jury found the defendant guilty of the following crime(s):

CRIME(S)	WIS STATUTE(S) VIOLATED	FELONY OR MISDEMEANOR (F OR M)	CLASS (A-E)	DATE(S) CRIME COMMITTED
PWJTD-Cocaine	161.16(2) (b)(1) 161.41(1m) (c)(1)	F		6-18-92

IT IS ADJUDGED that the defendant is convicted on 1-19-93 as found guilty and:☒ on 3-11-93 is sentenced to prison for 4 years☐ on _____ is sentenced to intensive sanctions for _____☐ on _____ is sentenced to county jail/HOC for _____☒ on 3-11-93 is placed on probation for 4 years

CONDITIONS OF SENTENCE/PROBATION

Obligations: (Total amounts only)

Fine
(includes jail assessments; drug assessments;
penalty assessments) \$ 4,000.00Court costs
(includes service fees; witness fees; restitution
surcharge; domestic abuse fees; subpoena fees;
automation fees) \$ 60.00

Attorney fees \$ _____

Restitution for crime lab \$ 150.00Other drug testing \$ _____

Mandatory victim/witness surcharge(s)

felony one count \$ _____

misdemeanor _____ counts \$ _____

Jail: To be incarcerated in the county jail/HOC for

nine months w/work
Release to commence 3-31-93
a ASAP thereafterConfinement Order For Intensive Sanctions sentence
only - length of term: _____

Miscellaneous

① drug/alcohol
evaluation/treatment ② pay
drug abuse program im-
provement surcharge
③ psychological evaluation/
treatment ④ 40 hours commu-
nity serviceIT IS ADJUDGED that one day sentence credit are due pursuant to s. 973.155 Wis. Stats. and shall be credited if on probation and it is revoked.

IT IS ORDERED that the Sheriff shall deliver the defendant into the custody of the Department located in the City of

Milw. WI

NAME OF JUDGE <u>John DiMatteo</u>
DISTRICT ATTORNEY <u>Cynthia M. Beyer-Glrich</u>
DEFENSE ATTORNEY <u>Allen Schatz</u>

BY THE COURT:

Ducy Distinsky
Circuit Court Judge/Clerk/Deputy Clerk3-11-93

Date Signed

June 1, 1993

Honorable John J. DiMotto, Presiding

Defense motion to modify sentence argued and granted. Court grants release five (5) hours a day on Sundays and holidays. Court further grants release Monday through Friday, eight hours a day for D.V.R. Program. A signed copy of the order is hereto attached.

Dated this 1st day of June, 1993

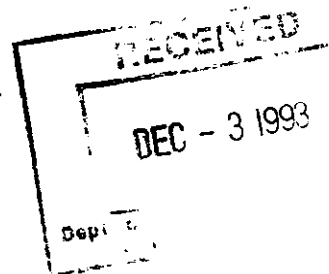
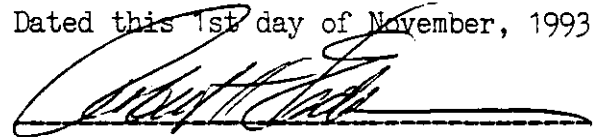


October 21, 1993

Honorable Stanley Miller, Presiding

Court ordered the defendant to be released for 14 hours a day, seven days a week for school and/or work and/or family care.

Dated this 1st day of November, 1993



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
SANDRA A. TORBECK, L.P.N.,	:	93 NUR 232
RESPONDENT	:	

It is hereby stipulated between SANDRA A. TORBECK, personally on her own behalf and the Department of Regulation and Licensing, Division of Enforcement by its attorney, Steven M. Gloe, as follows that:

1. This Stipulation is entered into in resolution of the pending proceedings concerning Ms. Torbeck's license. The stipulation and order shall be presented directly to the Board of Nursing for its consideration for adoption.

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

4. Ms. Torbeck 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.

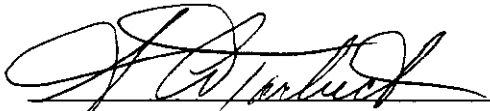
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties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

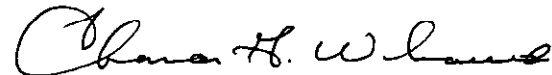
7. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Board of Nursing assigned as an advisor in this investigation may appear before the Board of Nursing for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

8. By the terms of this stipulation, the Division the waives imposition of costs in this proceeding.

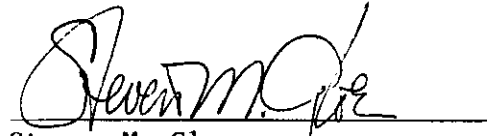
9. The Division of Enforcement joins Ms. Torbeck in recommending the Board of Nursing adopt this Stipulation and issue the attached Final Decision and Order.


Sandra A. Torbeck

1/20/94
Date


Thomas G. Wilmouth
Attorney for Ms. Torbeck

1/20/94
Date


Steven M. Gloe
Division of Enforcement

1 25 54
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.

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:

FEBRUARY 1, 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.)