

# 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

DEBORAH JEAN PETERSON, R.N.,  
RESPONDENT.

FINAL DECISION  
AND ORDER  
LS9409091NUR

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.

Dated this 6 day of January 1995.

Pamela L. Johnson RD

Division V.H.  
repaired  
discussed from IPP  
under. Assp. until  
establish ability

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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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In the Matter of Disciplinary Proceedings Against

DEBORAH JEAN PETERSON, R.N.,  
Respondent.

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PROPOSED DECISION

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The parties to this proceeding for purposes of s. 227.53, Stats., are:

Deborah Jean Peterson, R.N.  
8479 Creekbed  
Huber Heights OH 45424

Board of Nursing  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison WI 53708

Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison WI 53708

A hearing was held in this matter on November 7, 1994, at the Department offices. Complainant Division of Enforcement appeared by Attorney Steven M. Gloe. Respondent Deborah Jean Peterson did not appear, nor did anyone enter an appearance on her behalf. Because Ms. Peterson had not filed an answer to the complaint prior to the hearing, and did not appear in person or by counsel, Complainant's motion for default pursuant to s. RL 2.14, Wis. Admin. Code, was granted.

On November 10, 1994, the Administrative Law Judge received a letter from Ms. Peterson in the form of a narrative response to the complaint.

On the basis of the entire record in this matter, and taking into consideration the contents of the letter received after the hearing, the Administrative Law Judge recommends that the Board of Nursing adopt the following Findings of Fact, Conclusions of Law and Order as its Final Decision in this matter.

### FINDINGS OF FACT

1. Deborah Jean Peterson, R.N., is licensed as a registered nurse in the state of Wisconsin pursuant to a license first granted April 6, 1976, and has a current address of 8479 Creekbed, Huber Heights, Ohio.

2. On or about February 16, 1992, Ms. Peterson worked the NOC shift at Middleton Village Nursing Home in Middleton, Wisconsin, in an unfit condition to safely and competently perform her nursing duties. During that shift, Ms. Peterson failed to follow the doctor-ordered protocol for elevated blood pressure in a patient assigned to her care.

3. On or about February 20, 1992, Ms. Peterson diverted three tablets of Darvocet N 100 mg. from her employer, Middleton Village Nursing Home.

4. On or about April 29, 1993, in resolution of the investigation involving the allegations referred to in paragraphs 2 and 3 above, Ms. Peterson entered into the Wisconsin Department of Regulation and Licensing Impaired Professionals Procedure Agreement on a Statement of Facts agreed to by Ms. Peterson. The material fact in the Statement is:

3. Ms. Peterson has several medical problems for which she has been prescribed medications. The cumulative effect of these medications has the potential to impair her abilities.

5. Ms. Peterson's letter received after the hearing date confirms that she has had several medical problems, the medical management of which has resulted in potential impairment of her abilities.

6. Ms. Peterson was dismissed from the Wisconsin IPP on January 31, 1994, for "substantial violations of [her] "Agreement for Participation."

### CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in this matter pursuant to s. 441.07, Stats.

2. By failing to follow physician's orders regarding a patient in her care, and by diverting medication from her employer, Ms. Peterson has violated s. 441.07, Stats., and ss. N7.03(1)(d), N7.03(2) and N7.04(1) and (2), Wis. Admin. Code.

### ORDER

NOW THEREFORE IT IS ORDERED that the license previously issued to Deborah Jean Peterson to practice as a registered nurse in Wisconsin be and hereby is SUSPENDED for not less than 1 month.

IT IS FURTHER ORDERED that the suspension of the license may be lifted or stayed only upon submission of evidence satisfactory to the Board of Nursing that Ms. Peterson is capable of practicing nursing safely and competently, under such conditions as the Board may prescribe.

### OPINION

The Division of Enforcement asked for revocation of the license in this case because Ms. Peterson did not file a timely answer or appear at the hearing, giving the appearance that she did not care about the license and did not intend to respect the responsibility of the Board to protect public health, safety and welfare. Ms. Peterson did file a response, albeit late, which confirms in great detail that fact that her physical health has long been poor, resulting in an extremely difficult situation compounded by the side effects of medical management of her condition.

While the responsibility of the nurse to refrain from practice when her own condition is such that she cannot competently perform her duties is clear, the reason for the incapacity is relevant to the issue of discipline. Ms. Peterson has admitted violating important standards of the profession, and has been dismissed from the rehabilitation program designed to keep her in the profession. The program is expensive, and Ms. Peterson notes that her situation made the cost prohibitive. While this is not a defense to either the underlying conduct or the failure to comply with the program, it is also not evidence of a contumacious attitude or willful violations of Board regulations.


Ms. Peterson states in her letter that her circumstances have changed, and that her health is significantly improved. It is not unlikely that she has recovered capabilities earlier beyond her physical strength, which would make a narrowly tailored program for her complete rehabilitation and concurrent public protection a reasonable goal. Consequently, because revocation of the license is for a minimum period of one year, and because the Board should be permitted the greatest possible latitude in dealing with the current situation for the protection of the public and the rehabilitation of the licensee, I recommend an indefinite suspension. I believe that a short period of suspension is required to demonstrate disapproval of the course of conduct in order to serve considerations of deterrence, but I have clearly insufficient information to make a responsible

recommendation to the Board about the conditions for the lifting or stay of the suspension.

The suspension will, in any event, remain in place until Ms. Peterson petitions the Board to have it removed, and the Board determines what conditions or limitations are appropriate.

I deliberately decline to impose the costs of this proceeding on Ms. Peterson under the authority of s. 440.22, Stats. The costs are minimal, given the nature of the case, and the probability that the costs would be predominantly punitive in nature leads me to believe that it is appropriate in this instance for all licensees to share this cost of regulating the profession.

Dated this 11th day of November, 1994.

A handwritten signature in dark ink, appearing to read "James E. Polewski", is written over a horizontal line.

James E. Polewski  
Administrative Law Judge  
P.O. Box 8935  
Madison WI 53708  
608/266-0358

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## NOTICE OF APPEAL INFORMATION

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**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:**

JANUARY 9, 1995.

### 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.)