

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

KELLEY L. HOFFMAN, R.N.,
RESPONDENT

:
:
:
:
:

FINAL DECISION AND ORDER
93 NUR 223

ORDER 0001853

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

Kelley L. Hoffman
1312 Apache Circle
Nekoosa, WI 54457

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. Kelley L. Hoffman (D.O.B. 06/11/62) is duly licensed in the state of Wisconsin to practice as a registered nurse (license #97548). This license was first granted on September 4, 1987.

2. Ms. Hoffman's latest address on file with the Department of Regulation and Licensing is 1312 Apache Circle, Nekoosa, WI 54457.

3. On exact dates unknown, but at least between October 1, 1993 and October 23, 1993, Ms. Hoffman diverted controlled substances for her personal use from her employer, Edgewater Haven Nursing Home, 1351 Wisconsin River Drive, Port Edwards, Wisconsin. The drugs Ms. Hoffman diverted included Xanax™, Cogesic™, Tylenol with codeine, and Phenergan™.

5. In resolution of this matter, Ms. Hoffman consents to the entry of the

following Conclusions of Law and Order as a reasonable accomodation to allow her to continue her nursing career, in light of the facts and circumstances of this case.

CONCLUSIONS OF LAW

Kelley L. Hoffman 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 §§N7.03(2) and N7.04(1), (2), and (15).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Kelley L. Hoffman to practice as a registered nurse in the state of Wisconsin (#97548) shall be SUSPENDED for an INDEFINITE PERIOD of time.

IT IS FURTHER ORDERED that

(a) Ms. Hoffman may petition the Board at any time for a stay of the suspension of her licensure. In conjunction with a petition by Ms. Hoffman, the Board shall require documentation of Ms. Hoffman'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. Hoffman for a period of at least sixty (60) days immediately prior to submission of the petition; 2) documentation of successful participation in a program for the treatment of chemical dependency to the completion of recommended therapy, or for a period of at least six (6) months immediately prior to the submission of the petition; and 3) submission of a current chemical dependency assessment from a health care provider acceptable to the Board certifying that Ms. Hoffman is fit to safely return to practice as a nurse. 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 Kelley L. Hoffman 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. Kelley L. Hoffman 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. Hoffman's practice during the prior three (3) month period.

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

(c) CONDITIONS OF STAY

- i If the Board determines that further treatment is required, Ms. Hoffman 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. Hoffman 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. Hoffman 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. Hoffman shall restrict her practice in accordance with the recommendations of her treatment provider.

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

Ms. Hoffman 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. Hoffman 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. Hoffman refuses to give a specimen for analysis upon a request authorized under the terms of this Order.

Ms. Hoffman shall appear and provide a specimen not later than five (5) hours following a request for a specimen, but in no event later than the same calendar date that the request was made. The random drug and alcohol screening program shall include weekends and holidays for collection of specimens.

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

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

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

- vi Ms. Hoffman shall arrange for quarterly reports to the nursing Examining Board from her nursing employer(s) 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. Hoffman's attendance and progress in therapy as well as evaluating her level of participation at NA/AA meetings.
- vii Ms. Hoffman 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. Hoffman 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. Hoffman 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. Hoffman'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 3/4/94
A Member of the Board Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF :		
DISCIPLINARY PROCEEDINGS AGAINST :		STIPULATION
KELLEY L HOFFMAN, R.N., :		93 NUR 223
RESPONDENT :		

It is hereby stipulated between Kelley L. Hoffman, 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 as a result of a pending investigation of Ms. Hoffman's licensure by the Division of Enforcement (93 NUR 223). Ms. Hoffman consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Ms. Hoffman 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 him, 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. Hoffman is aware of her right to seek legal representation and has been provided the opportunity to seek legal advice prior to signing this stipulation.

4. Ms. Hoffman 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 Kelley L. Hoffman. If the Board accepts the Stipulation, Ms. Hoffman's license shall be reissued only in accordance with the terms of the attached Final Decision and Order. If the Board does not accept this Stipulation, the

license of Ms. Hoffman 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.

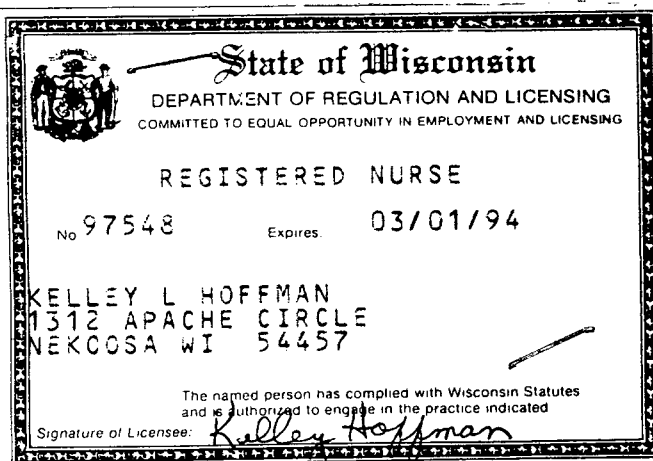
8. The Division of Enforcement joins Ms. Hoffman in recommending the Board of Nursing adopt this Stipulation and issue the attached Final Decision and Order.

Kelley L. Hoffman
Kelley L. Hoffman, R.N.

2/16/94
Date

Steven M. Goe
Steven M. Goe, Attorney
Division of Enforcement

2.22.94
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:

MARCH 9, 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.)



PDF: DE00000001600-19940304

Order Dates:

MAR 04, 1994

Respondent Names:

HOFFMAN, KELLEY L., RN

Complaint IDs:

93NUR223

Profession:

REGISTERED NURSE

Boards:

NUR

Short Description:

SUSPENDED INDEFINITELY EFFECTIVE 4/3/94.

Case Summary:

DIVERTED CONTROLLED SUBSTANCES FOR HER PERSONAL USE FROM HER
EMPLOYER.

