

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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The status of an appeal may be found on court access websites at:
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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

DAWN C. BOTTICELLI, R.N.,
RESPONDENT.

FINAL DECISION AND ORDER
94 NUR 102

ORDER 0001867

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

Dawn C. Botticelli
W65 N692A St. John Avenue
Cedarburg, WI 53012

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. Dawn C. Botticelli, (D.O.B. 3/01/65) is duly licensed in the State
of Wisconsin as a registered nurse in the State of Wisconsin (license #
107539). This license was first granted on September 5, 1991.
2. Respondent's latest address on file with the Department of
Regulation and Licensing is W65 N692A St. John Avenue, Cedarburg, WI 53012.
3. For a period of at least five months prior to June 16, 1994, and
while employed as a registered nurse at Doyne Hospital, Wauwatosa, Wisconsin,
Respondent diverted controlled substances (Percocet) on a daily basis from her
place of employment for her personal use, by falsifying hospital records.

94
C.S. diverted from Hosp.
Stayed susp

4. Following confrontation by her employer, Respondent admitted to the diversion and consumption of the controlled substances, and obtained an evaluation, which resulted in a recommendation of inpatient detoxification and outpatient therapy for chemical dependence.

CONCLUSIONS OF LAW

By the conduct described above, Dawn C. Botticelli is subject to disciplinary action against her 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 as a reasonable accommodation to the condition of Respondent, that the license of Dawn C. Botticelli shall be SUSPENDED for a period of not less than two (2) years.

(a) IT IS FURTHER ORDERED that commencing December 15, 1994, the SUSPENSION shall be STAYED for a period of three (3) months, conditioned upon compliance with the conditions and limitations outlined in paragraph (b), below.

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 her therapist; attendance, however, shall be required at least two (2) times per month. In addition, Respondent must attend Alcoholics or Narcotics Anonymous at least one (1) 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 her blood and/or urine on a frequency of not less than four (4) times per month. If the physician or therapist supervising her plan of care or her 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 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 her responsibility. For the purposes of actions affecting her 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 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. In addition, Respondent shall immediately provide her employer with a copy of any denial of an extension of stay under this Order.

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

vii. Respondent 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. 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:

Jacqueline Johnson R.N.M.S.
On behalf of the Board

Date

9/16/94

jh

doc: 6429

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
DAWN C. BOTTICELLI, R.N.,	:	94 NUR 102
RESPONDENT	:	

It is hereby stipulated between Dawn C. Botticelli, personally on her own behalf and James W. Harris, 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 Respondent's licensure by the Division of Enforcement. Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

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

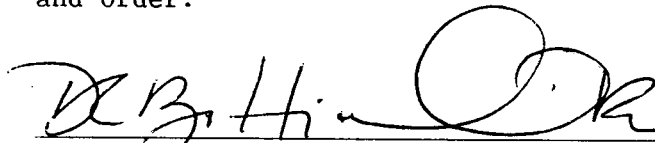
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board of Nursing. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any 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.

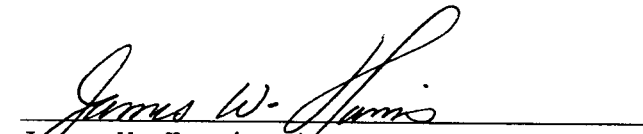
6. Attached to this Stipulation is the current licensure card of Respondent. If the Board accepts the Stipulation, Respondent's license shall be reissued in accordance with the terms of the attached Final Decision and Order. If the Board does not accept this Stipulation, the license of Respondent shall be returned to Res 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 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 Respondent in recommending the Board of Nursing adopt this Stipulation and issue the attached Final Decision and Order.


Dawn C. Botticelli, R.N.

8/26/94
Date


James W. Harris, Attorney
Division of Enforcement

August 30, 1994
Date

jh

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:

SEPTEMBER 20, 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: DE00000001842-19940916

Order Dates:
SEP 16, 1994

Respondent Names:
BOTTICELLI, DAWN C., RN

Complaint IDs:
94NUR102

Profession:
REGISTERED NURSE

Boards:
NUR

Short Description:
SUSPEND 2 YEARS. COMMENCING 12/15/94 THE SUSPENSION WILL BE STAYED
FOR 3 MONTHS WITH LIMITATIONS IMPOSED.

Case Summary:
DIVERTED CONTROLLED SUBSTANCES (PERCOCET) ON A DAILY BASIS FROM
HER PLACE OF EMPLOYMENT FOR HER PERSONAL USE, BY FALSIFYING
HOSPITAL RECORDS. AFTER CONTRONTATION BY HER EMPLOYER ADMITTED
TO THE DIVERSION.

