

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

JAYNE A. GARBADE, RN,

Respondent

ORDER REINSTATING THE STAY

On November 5, 1993, the Board of Nursing issued its Final Decision and Order in the above-captioned matter. By the terms of the board's order, respondent's license to practice as a registered nurse in Wisconsin was suspended for an indefinite period. The order provided that respondent could petition for consecutive three month stays of the suspension upon demonstrating that she had participated in a chemical dependency assessment establishing that she could safely perform nursing practice. Respondent was thereafter granted a stay of the suspension of her license.

By letter dated February 23, 1995, respondent requested that the stay of the suspension of her license be renewed, and requested as well that the frequency of required urine screen be reduced to two per month. That request was granted by the board's Order dated May 15, 1995.

On September 8, 1995, the board issued its Notice of Denial and Order, by which the board denied further stay of the suspension. The basis for the Order was the board's finding that on or about June 8, 1995, respondent had forged a drug screening witness sheet in conjunction with her monitoring program. Respondent thereafter requested and was granted an appearance before the board. She appeared on November 3, 1995, and requested that the board reinstate the stay of suspension of her license. The board considered the matter on that date.

Based upon respondent's request, and upon all other information of record herein, the board orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that the stay of the suspension of the license of Jayne A. Garbade to practice as a registered nurse in the State of Wisconsin is hereby reinstated, subject to the following terms and conditions:

- (1) The term of the license shall be for three months. Respondent may apply for consecutive three month renewals of the license, which shall be granted upon acceptable

demonstration of compliance with the conditions and limitations set forth herein. Should the board deny a petition by respondent for an extension, she shall be accorded the opportunity for a hearing in accordance with the procedures set forth in sec. RL 1, Code.

(2) Upon successful completion for a period of one year with the conditions and limitations set forth herein, the board shall grant a petition by respondent for a full license. The board may, in its discretion, require that respondent complete at least six months of nursing employment monitored under the conditions set forth herein prior to the board's issuance of a complete and unrestricted license.

(3) Respondent shall participate in a program for the treatment of chemical dependency at a health care facility satisfactory to the board. As a part of treatment, respondent shall attend therapy on a schedule as recommended by her therapist. In addition, respondent shall attend Alcoholics Anonymous or Narcotics Anonymous on a schedule as recommended by her therapist.

(4) Upon request of the board, respondent shall provide current releases to any affected treatment facilities and personnel complying with state and federal laws, authorizing release of all her counseling, treatment, monitoring and employment records to the board. Copies of the releases shall be filed simultaneously with the board.

(5) Respondent shall not consume any unprescribed controlled substances and shall abstain from any and all personal use of alcohol.

(6) Respondent shall participate in a program of random, witnessed monitoring of her blood or urine for the presence of controlled substances and alcohol. Monitoring shall take place a minimum of twice per month. If the physician or therapist supervising his plan of care 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 acceptable to the board, as well as for all costs incurred in connection with the required monitoring and reporting. To be an acceptable program, the monitoring facility must agree to provide random and witnessed gatherings of specimens for evaluation, must agree to maintain a custody record of all specimens, and must agree to confirm positive test results with gas chromatography or mass spectrometry. The facility must also agree to file an immediate report with the board in the event the respondent fails to appear upon request, the monitoring screen proves positive, or the respondent refuses to provide a specimen upon a request authorized under the terms of this Order. Respondent shall be responsible for the accuracy of the monitoring procedure. For the purpose of further actions affecting her license, it shall be presumed that all confirmed positive reports are valid, and respondent shall have the burden of proof in establishing an error in testing or fault in the chain of custody regarding a positive monitoring report.

(7) Respondent shall provide his employer and any prospective employer with a copy of this Order upon its issuance, and upon any change of employment during the time when this Order is in effect. In addition, respondent shall immediately provide her employer with a copy of any denial of an extension of stay under this Order.

(8) Respondent shall be responsible for submission to the board of quarterly written reports from her employer evaluating her work performance; from the monitoring program providing the dates and results of the screenings performed; and from her counselor evaluating her attendance and progress in therapy as well as evaluating her level of participation at NA/AA meetings.

(9) Respondent shall report to the board any change in employment status, change of address or phone number within five days of any such change.

(10) Respondent may petition the board in conjunction with any application for an additional stay to revise or eliminate any of the conditions set forth herein. Denial in whole or in part of a petition under this paragraph shall not constitute a denial of a license and shall not give rise to a contested case within the meaning of ss. 227.01(3) and 227.42, Stats.

(11) Violation of any of the terms of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in summary suspension of respondent's license. The board in its discretion may in the alternative deny a request for renewal of the license or impose additional discipline for a violation of any of the terms of this Order.

Dated this 14th day of November, 1995.

STATE OF WISCONSIN
BOARD OF NURSING

by Pamela A. Maxson, RN/CP
Pamela A. Maxson, R.N.
Chair