

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

SELENA PATRICIA HOLLMAN, LPN,
RESPONDENT.

FINAL DECISION
AND ORDER
LS9504131NUR

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.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

The rights of a party aggrieved by this Decision to petition the board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 3 day of November 1995.



**STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING**

**IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST**

**PROPOSED DECISION
Case No. LS-9504131-NUR**

**SELENA PATRICIA HOLLMAN, L.P.N.,
RESPONDENT.**

PARTIES

The parties in this matter under § 227.44, Stats., and for purposes of review under § 227.53, Stats., are:

Selena Patricia Hollman
8853H North 91st Street
Milwaukee, WI 53224

Board of Nursing
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708

This matter was commenced by the filing of a Notice of Hearing and Complaint on April 13, 1995. A hearing was held in the above-captioned matter on July 26, 1995. Atty. James W. Harris appeared on behalf of the Department of Regulation and Licensing, Division of Enforcement. The respondent, Selena Patricia Hollman did not appear at the hearing.

Based upon the record herein, the Administrative Law Judge recommends that the Board of Nursing adopt as its final decision in this matter, the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Selena Patricia Hollman (d.o.b., 08/13/61), 8853H North 91st Street, Milwaukee, WI, is licensed as a licensed practical nurse in the State of Wisconsin, license #28760.
2. On June 4, 1992, respondent was assigned to the 3:00 p.m. to 11:00 p.m., duty shift at the Marian Catholic Home, Milwaukee, Wisconsin as a licensed practical nurse. As a team leader, respondent was responsible for the care of 30 residents, including resident EK.

3. A nursing assistant reported to the respondent that resident EK was in need of assessment and assistance. Respondent failed to respond to the needs of the resident, and another nurse intervened to make the assessment of the resident's condition.

4. Respondent's supervisor then directed respondent to notify the resident's physician of the incident and condition of EK, but respondent refused.

5. Respondent abandoned her duty station at approximately 5:00 p.m., and left the facility, without consent or cover, in violation of institutional policy.

6. Respondent did not file an Answer to the Complaint filed in this matter, and did not appear at the hearing held in this matter.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in this matter pursuant to s. 441.07 (1), Stats., and ch. N 7, Wis. Adm. Code.

2. By having engaged in conduct as described in Findings of Fact 2-5, herein, respondent violated s. 441.07 (1)(b), (c) and (d), Stats., and ss. N 7.03 (1) (a), (b) and (c) and N 7.04 (15), Wis. Adm. Code.

3. By failing to file an Answer to the Complaint and failing to appear at the hearing held in this matter, respondent is in default under s. RL 2.14 Wis. Adm. Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Selena Patricia Hollman to practice as a licensed practical nurse be, and hereby is, **SUSPENDED** for a period of not less than one (1) year.

IT IS FURTHER ORDERED that:

(1) **Stay of Suspension**

(a) The suspension shall be **STAYED** for a period of three (3) months, conditioned upon compliance with the conditions and limitations outlined in paragraph (2) below.

(b) Respondent may apply for consecutive three (3) months 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.

(c) If the Board denies the petition by respondent for an extension, the Board shall afford an opportunity for a hearing in accordance with the procedures set forth in ch. RL 1, Wis. Adm. Code, upon timely receipt of a request for a hearing.

(d) Upon a showing by respondent of complete, successful and continuous compliance for a period of one (1) year with the terms of paragraph (2) below, the Board may grant a petition by respondent for return of full licensure.

(2) **Conditions of Stay**

(a) Within six (6) months of the date of this Order, respondent shall certify to the Board of Nursing the successful completion of an approved course of education in one or more areas approved by the Board as relevant to the conduct described in this action. Respondent shall submit a course outline for approval by a Board designee within two (2) months of the date of this Order. The course outline shall include the name of the institution providing the instruction, the name of the instructor, and the course content.

(b) Respondent shall not act in the capacity of a charge nurse or in any supervisory nursing position during the term of this Order.

(c) Respondent shall be responsible for all costs associated with the educational coursework and reporting required under the terms of this Order.

(d) Respondent shall provide all current and prospective nursing employers with a copy of this Order; arrange for submission of quarterly reports to the Board of Nursing from her nursing employer(s) reporting the terms and conditions of her employment and evaluating her work performance, and report to the Board any change in her employment status within five (5) days of such change.

(3) **Petition for Modification of Terms**

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. S. 227.01 (3) and 227.42.

IT IS FURTHER ORDERED that pursuant to s. 440.22, Wis. Stats., the cost of this proceeding shall be assessed against respondent, and shall be payable to the Department of Regulation and Licensing.

This order is effective on the date on which it is signed by a designee of the Board of Nursing.

OPINION

This matter was commenced by the filing of a Notice of Hearing and Complaint on April 13, 1995. A hearing was held on July 26, 1995. Atty. James W. Harris appeared on behalf of the Department of Regulation and Licensing, Division of Enforcement. The respondent, Selena Hollman, did not file an Answer to the Complaint and did not appear at the hearing.

The evidence presented in this case establishes that the respondent violated numerous provisions of ch. 441, Stats., and ch. N 7 Wis. Adm. Code. Having found that Ms. Hollman violated laws governing the practice of nursing in Wisconsin, a determination must be made regarding whether discipline should be imposed, and if so, what discipline is appropriate.

The Board of Nursing is authorized under s. 441.07 (1), Stats., to reprimand a licensed practical nurse or limit, suspend or revoke the license of a licensed practical nurse if it finds that the individual has violated ch. 441, Stats., or any rule adopted by the Board under the statutes.

The purposes of discipline by occupational licensing boards are to protect the public, deter other licensees from engaging in similar misconduct and to promote the rehabilitation of the licensee. *State v. Aldrich*, 71 Wis. 2d 206 (1976). Punishment of the licensee is not a proper consideration. *State v. McIntyre*, 41 Wis. 2d 481 (1969).

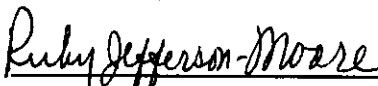
The Administrative Law Judge recommends that Ms. Hollman's license to practice as a licensed practical nurse be suspended for a period of not less than one year, subject to the stay order. This measure is designed primarily to assure protection of the public.

The evidence presented establishes that Ms. Hollman is not capable of practicing as a nurse in a manner which safeguards the interests of the public. At the time she abandoned her duty station and left the nursing home facility without consent or cover, she was responsible for the care of 30 residents. As a result, the facility was required to make alternative arrangements for the care of the patients. The requirement that Ms. Hollman complete educational coursework relevant to the conduct described in this case is designed to provide an additional measure of protection to the public.

Based upon the record herein, the Administrative Law Judge recommends that the Board of Nursing adopt as its final decision in this matter, the proposed Findings of Fact, Conclusions of Law and Order as set forth herein.

Dated at Madison, Wisconsin this 25th day of August, 1995

Respectfully submitted,


Ruby Jefferson-Moore
Administrative Law Judge

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

AFFIDAVIT OF COSTS
LS9504131NUR

SELENA PATRICIA HOLLMAN, L.P.N.,
RESPONDENT.

STATE OF WISCONSIN
COUNTY OF DANE

Ruby Jefferson-Moore, being first duly sworn on oath deposes and states:

1. That affiant is an attorney licensed to practice law in the State of Wisconsin, and is employed by the Wisconsin Department of Regulation and Licensing, Office of Board Legal Services.

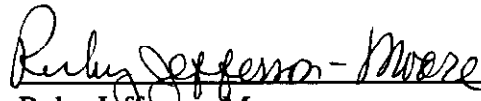
2. That in the course of affiant's employment she was appointed administrative law judge in the above-captioned matter. That to the best of affiant's knowledge and belief, the costs for services provided by affiant are as follows:

<u>ACTIVITY</u>	<u>DATE</u>	<u>TIME</u>
Preparation and Hearing	07/26/95	30 min.
Review record/law/draft decision	08/25/95	1 hr.

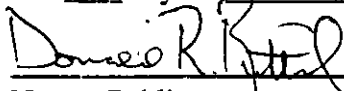
Total costs for Administrative Law Judge: \$40.50.

3. That upon information and belief, the total cost for court reporting services provided by Magne-Script is as follows: N/A

Total costs for Office of Board Legal Services: \$40.50.


Ruby Jefferson-Moore
Administrative Law Judge

Sworn to and subscribed to before me
this 17th day of November, 1995


Notary Public
My Commission: is Permanent

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
SELENA PATRICIA HOLLMAN, L.P.N., : AFFIDAVIT OF COSTS
RESPONDENT. : LS950413NUR
 :

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

James W. Harris, being duly sworn, deposes and states as follows:

1. That I am an attorney licensed in the state of Wisconsin and am employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement:

2. That in the course of those duties I was assigned as a prosecutor in the above-captioned matter; and

3. That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

PROSECUTING ATTORNEY EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
12/08/94	file review/fact summary	1.0
2/01/95	prep stipulation, order, letter	2.0
2/28/95	letter Respondent	0.5
4/06/95	prep complaint, notice, transmittal	2.0
5/09/95	prep default motion, affidavit, transmittal	0.5
6/19/95	prep amended default motion, transmittal	0.5
6/20/95	prep notice of deposition, subpoena	1.0
7/05/95	prep for deposition	2.0
7/06/95	deposition of PB	2.0
7/26/95	prep and hearing	2.0
11/08/95	prep affidavit	1.0

TOTAL HOURS 14.5 hours

Total attorney expense for
14.5 hours and minutes at \$41.00 per hour
(based upon average salary and benefits
for Division of Enforcement attorneys) equals: \$ 594.50

INVESTIGATOR EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
2/05/93	file prep	0.5
3/22/93	telconf complainant/memo	0.5
3/22/93	records request, letter Respondent	1.0
4/14/93	telconf Respondent, memo	0.5
4/26/95	letter Respondent	0.3
8/19/93	telconf witness, memo	0.75
8/20/93	telconf witness, memo	0.5
10/01/93	telconf witnesses	1.5
11/01/93	letter Respondent	0.3
4/15/94	attempts to contact Respondent, letter	0.5
5/05/94	attempts to contact Respondent, letter	0.5
5/12/94	attempts to contact Respondent, letter	0.5
5/19/94	letter Complainant	0.3
5/25/94	case prep for board advisor	1.0
10/25/94	telconf board advisor	0.3
12/07/94	PIC summary, transmittal	1.0

TOTAL HOURS

9.15 hours

Total investigator expense for
9.15 hours and minutes at \$20.00 per hour
(based upon average salary and benefits
for Division of Enforcement investigators) equals:

\$ 183.00

MISCELLANEOUS DISBURSEMENTS

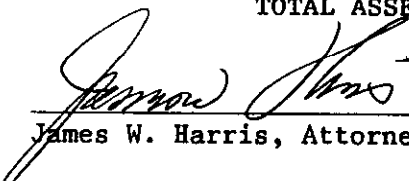
4/16/93	copies of medical records	5.20
4/13/95	postage	6.00
6/20/95	postage	5.00
7/14/95	deposition transcript	77.83

Total Disbursements

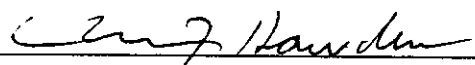
94.04

TOTAL ASSESSABLE COSTS:

\$ 871.53


James W. Harris, Attorney

Subscribed and sworn to before me
this 8th day of November, 1995.


Notary Public, my commission permanent

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:

STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

November 7, 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.)