

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

WENDY K. SCHMOCK, R.N.,
RESPONDENT

FINAL DECISION AND ORDER

94 NUR ~~073~~ 097

ORDER 0001780

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

Wendy K. Schmock
1390 Wood Trail
Eau Claire, WI 54703

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. Wendy K. Schmock (D.O.B. 08/13/57) is duly licensed in the state of Wisconsin to practice as a registered nurse (license #71777). This license was first granted on September 29, 1978.
2. Ms. Schmock's latest address on file with the Department of Regulation and Licensing is 1390 Wood Trail, Eau Claire, WI 54703.
3. On exact dates unknown, but beginning at least in 1990 and continuing on through December, 1993, Ms. Schmock diverted Darvocet samples from her place of employment for her personal use and without a legitimate prescription for ingesting this drug. Other drugs abused by Ms. Schmock during this period of time included Valium, Xanax, Vicodin and Percocet.

*diversion from employment
independent receipt
reinstatement on
board's terms*

4. In resolution of this matter, Ms. Schmock consents to the entry of the following Conclusions of Law and Order as a reasonable accomodation to allow her an opportunity to continue her nursing career, in light of the facts and circumstances of this case.

CONCLUSIONS OF LAW

Wendy K. Schmock 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 Wendy K. Schmock to practice as a registered nurse in the state of Wisconsin (#71777) shall be SUSPENDED for an INDEFINITE PERIOD of time.

IT IS FURTHER ORDERED that

(a) Ms. Schmock may petition the Board at any time for a stay of the suspension of her licensure. In conjunction with a petition by Ms. Schmock, the Board may require documentation of Ms. Schmock's rehabilitation, including her participation in a program acceptable to the Board for the treatment of chemical dependency and/or a current chemical dependency assessment from a treatment provider acceptable to the Board.

(b) Upon its determination that Wendy K. Schmock can safely and competently return to the active practice of nursing, the Board may stay the suspension of Ms. Schmock's license, conditioned upon such terms as the Board in its discretion deems appropriate to safeguard the public health, welfare and safety.

(c) Denial in whole or in part of a petition under this Order 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) This Order shall become effective upon the date of its signing.

BOARD OF NURSING

By: *Janet A. Nelson* 5-5-95
A Member of the Board Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
WENDY K. SCHMOCK, R.N.,	:	94 NUR 073
RESPONDENT	:	

It is hereby stipulated between Wendy K. Schmock, 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. Schmock's licensure by the Division of Enforcement (94 NUR 073). Ms. Schmock consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Ms. Schmock 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. Ms. Schmock is aware of her right to seek legal representation and has obtained legal advice prior to signing this stipulation.

4. Ms. Schmock 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 Wendy K. Schmock. If the Board accepts the Stipulation, Ms. Schmock'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

Ms. Schmock 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. Schmock in recommending the Board of Nursing adopt this Stipulation and issue the attached Final Decision and Order.

Wendy K. Schmock
Wendy K. Schmock, R.N.

3-3-95
Date

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

3.10.95
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:

STATE OF WISCONSIN BOARD OF NURSING.

1400 East Washington Avenue

P.O. Box 8935

Madison. WI 53708.

The Date of Mailing this Decision is:

MAY 10, 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.)