

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
: 97 NUR 120
LORENE M. SMILEY, R.N., :
RESPONDENT. :

LS971132NUR

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

Lorene M. Smiley
3332 Forest Run Court
Madison, WI 53704

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 the Stipulation and considers it acceptable. Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Lorene M. Smiley (D.O.B. 03/29/61) is duly licensed as a registered nurse in the state of Wisconsin (lic #106322). This license was first granted on March 12, 1991.
2. Respondent's most recent address on file with the Department of Regulation and Licensing is W5943 Panther Creek Road, Neillsville, WI 54456. Respondent's current mailing address is 3332 Forest Run Court, Madison, WI 53704.
3. During the period of December, 1994,, through February, 1995, while employed as a registered nurse at St. Joseph's Hospital, Marshfield, Wisconsin, Respondent diverted controlled substances from her place of employment for her personal use.

4. On February 14, 1995, Respondent administered 2 mg. Haldol to a patient assigned to her care without first obtaining a physician's order for the medication. Respondent altered the patient record to reflect a physician order.

5. In July, 1997, , Respondent was terminated from the Impaired Practitioner Procedure for non-compliance.

6. Respondent is not currently practicing as a nurse, and tenders the voluntary surrender of her license to practice as a nurse in the state of Wisconsin.

CONCLUSIONS OF LAW

By the conduct described above, Lorene M. Smiley 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(c) and (d) and Wis. Adm. Code sec. N 7.03(2) and N 7.04(1), (2) and (15).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The stipulation of the parties is accepted.
2. The VOLUNTARY SURRENDER by Lorene M. Smiley of her license to practice as a registered nurse in the state of Wisconsin is accepted.
3. In the event Respondent shall ever re-apply for a license to practice as a nurse in the state of Wisconsin, she shall, in addition to all other requirements for licensure, demonstrate to the satisfaction of the Board of Nursing that she does not have a chemical dependence, and that she can safely and reliably perform nursing functions.
4. This Order shall become effective upon the date of its signing.

Wisconsin Board of Nursing

By: Lorinda D. Burrows 13 Nov 97
Chair Date

jh

STATE OF WISCONSIN

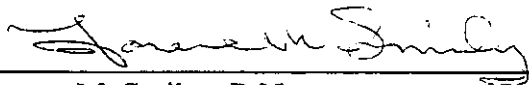
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
LORENE M. SMILEY, R.N.,	:	97 NUR 120
RESPONDENT.	:	

It is hereby stipulated between Lorene M. Smiley, 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.

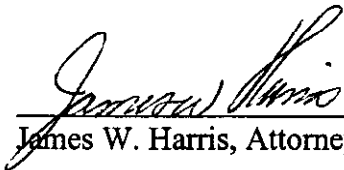
6. Attached to this Stipulation is the current licensure card of Respondent.
7. The parties to this Stipulation agree that the attorney for the Division of Enforcement may appear before the Board of Nursing for the purposes of speaking in support of this agreement and answering questions that the members 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.



Lorene M. Smiley, R.N..

10/28/97

Date



James W. Harris, Attorney
Division of Enforcement

November 3, 1997

Date

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE BOARD OF NURSING

In the Matter of the Disciplinary Proceedings Against

Lorene M. Smiley, R.N.,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On November 17, 1997, I served the Final Decision and Order dated November 13, 1997, LS9711132NUR, upon the Respondent Lorene M. Smiley, R.N. by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 159 648.

3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

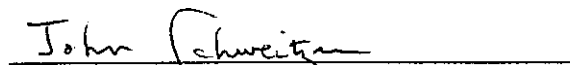
Lorene M. Smiley, R.N.
3332 Forest Run Court
Madison WI 53704



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 17th day of November, 1997.



Notary Public, State of Wisconsin
My commission is 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 17, 1997

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.)