

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 :

AGNES CAROL STEFANICH, R.N. :
RESPONDENT. :

FINAL DECISION AND ORDER
97 NUR 037

LS 98091712 NUR

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

Agnes Carol Stefanich
6918 W. Grantosa Drive
Milwaukee, WI 53218

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. Agnes Carol Stefanich (D.O.B. 2/09/43) is duly licensed in the state of Wisconsin as a registered nurse (license # 63513). This license was first granted on September 30, 1975.
2. Respondent's latest address on file with the Department of Regulation and Licensing is 6918 W. Grantosa Drive, Milwaukee, WI 53218.
3. Respondent was the subject of prior discipline by the Board of Nursing in September, 1981, for diversion of Demerol and Mepergan from St. Anthony's Hospital in Milwaukee.

4. On January 21, 1997, Respondent was terminated from her employment as a registered nurse at Wisconsin Lutheran Care Center following an investigation of missing controlled substances, including Tylenol # 3, Darvocet N100 and Vicodin, from Respondent's work area.

An audit of Respondent's locked medical cart revealed that on 1/17/97, 15 tablets of Darvocet N100 were missing from resident A's supply and 8 tablets of Tylenol # 3 were missing from resident B's supply. On 1/18/97, 10 tablets of Darvocet N100 were missing from resident C's supply. For the period 12/27/96 through 1/18/97 over 131 tablets of controlled substances were listed as missing from Respondent's locked medical cabinet.

Respondent, among others, was responsible for the security and documentation of the controlled substances. Respondent denies diverting any of the drugs and has no explanation for their disappearance.

5. On 1/26/98 Respondent participated in a limited AODA assessment which was inconclusive.

6. Respondent is not currently employed as a nurse.

CONCLUSIONS OF LAW

By the conduct described above, Respondent 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)(b), (c) and (d), and Wis. Adm. Code N 7.04(1), (2) and (15).

NOW, THEREFORE, IT IS HEREBY ORDERED that :

1. The attached Stipulation is accepted.
2. Effective on the date of this Order, the license of Agnes Carol Stefanich to practice as a registered nurse in the state of Wisconsin is SUSPENDED for an INDEFINITE period.

Respondent may apply to the Board for a stay of suspension for a period of three months, conditioned upon compliance with the conditions and limitations set forth below.

a. Upon her initial application for a stay of suspension, Respondent must provide the Board with a current (within thirty days) evaluation of her condition by a licensed physician who is an addictionologist, which must contain the opinion of the evaluator that Respondent may safely and reliably practice as a professional nurse. If the evaluation includes a recommendation for treatment Respondent must also provide proof satisfactory to the Board that

she has maintained continuous sobriety for a period of at least three months, and that she is enrolled in and successfully participating in a treatment program acceptable to the Board.

b. Respondent may apply for consecutive three month extensions of the stay of suspension, which shall be granted upon acceptable demonstration of compliance with all aspects of the Board Order during the prior three month period.

c. The Board may without hearing deny an application for extension of the stay, or commence other appropriate action, upon receipt of information that Respondent has violated any of the terms of this Order. If the Board denies the petition by the Respondent for an extension of stay, the Board shall afford an opportunity for hearing in accordance with the procedures set forth in RL 1, Wis. Adm. Code upon timely receipt of a request for hearing.

3. In the event that a stay of suspension is granted, the license to practice of Respondent shall be LIMITED as follows:

a. Respondent shall remain in full compliance with any treatment program recommended by her therapist and approved by the Board.

b. Respondent shall abstain from the use of alcohol and shall remain free from prescription drugs and controlled substances not prescribed to her for a valid medical purpose.

c. Respondent shall refrain from access to controlled substances in her work place.

d. Respondent shall arrange for written quarterly reports from her nursing employer to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, WI 53708-8935 assessing Respondent's work performance.

4. Respondent shall furnish a copy of this Order to all present nursing employers immediately, and to any prospective nursing employer when any application for employment is made.

5. Respondent shall report to the Board any change of employment status, residence address or telephone number within five days of the date of a change.

6. Respondent may petition the Board for modification of the terms of this Order. Denial of the petition in whole or in part shall not be considered a denial of a license within the meaning of Sec. 227.01(3)(a) Stats. and Respondent shall not have the right to further hearing or proceedings.

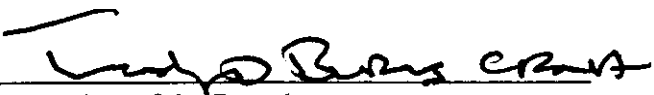
After two years of continuous active professional practice in full compliance with all the terms and conditions of this Order, Respondent may petition the Board for a termination of limitations and restoration of an unlimited license. Such restoration shall be in the sole discretion of the Board and denial of the petition in whole or in part shall not be considered a denial of a license within the meaning of sec. 227.01(3)(a) Stats., and Respondent shall not have a right to any further hearing or proceeding.

7. **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 a stay of suspension of the license or impose additional conditions and limitations or other discipline.**

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

9. This Order shall become effective upon the date of its signing.

WISCONSIN BOARD OF NURSING

By:  17 SEP 98
A Member of the Board Date

jh/7-14

STATE OF WISCONSIN

BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

AGNES CAROL STEFANICH, R.N.,
RESPONDENT.

STIPULATION
97 NUR 037

It is hereby stipulated between Agnes Carol Stefanich, 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.

Agnes Carol Stefanich R.N.
Agnes Carol Stefanich, R.N.

23 July 98
Date

James W. Harris
James W. Harris, Attorney
Division of Enforcement

August 3, 1998
Date

6. *As I told you in the last letter, I lost my wallet or it was stolen either way I have not had time to obtain a copy therefore I have no licensure card to send in.*

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

In the Matter of the Disciplinary Proceedings Against

Agnes Carol Stefanich, R.N.,

AFFIDAVIT OF MAILING

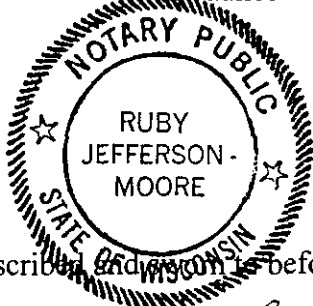
Respondent.

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 September 21, 1998, I served the Final Decision and Order dated September 17, 1998, LS98091712NUR, upon the Respondent Agnes Carol Stefanich, 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 Z 233 819 803.
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:

Agnes Carol Stefanich, R.N.
6918 W. Grantosa Drive
Milwaukee WI 53218



Subscribed and sworn to before me

this 21st day of September, 1998.

Ruby Jefferson-Moore
Notary Public, State of Wisconsin
My commission is permanent.

Kate Rotenberg
Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

NOTICE OF RIGHTS OF APPEAL

TO: AGNES CAROL STEFANICH RN

You have been issued an Order. For purposes of service the date of mailing of this Order is 9/21/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. 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 section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Order is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Order 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. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935