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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY FINAL DECISION
PROCEEDINGS AGAINST AND ORDER

MICHELE LOUISE MCKENNA, L.P.N.

Case No. LS0001121NUR

RESPONDENT

:

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

Dated this 19th day of May, 2000

Ann Brewer, RN

A Member of the Board

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST

MICHELE LOUISE MCKENNA, L.P.N.

Case No. LS0001121NUR

RESPONDENT

PROPOSED DECISION AND ORDER

PARTIES

The parties to this action for purposes of §227.53, Wis. Stats., are:

*Ms. Michele Louise McKenna
6 East 10th Street
Duluth, MN 55805-1227*

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

*Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935*

PROCEDURAL HISTORY

A hearing in the above-captioned matter was held on April 11, 2000, before Administrative Law Judge Jacquelynn B. Rothstein. The Division of Enforcement appeared by attorney James W. Harris. Ms. McKenna did not appear.

Based on the entire record in this case, the undersigned 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. Michele Louise McKenna (DOB 10/13/67) is a licensed practical nurse in the State of Wisconsin (License # 03131232). Her license was granted on April 17, 1992.
2. Ms. McKenna's latest address on file with the Department of Regulation and Licensing is 5207 W. Arrowhead Road, Hermantown, Minnesota. Her current address is 6 East 10th Street, Duluth, Minnesota.
3. Ms. McKenna was convicted on May 20, 1998, in Minnesota District Court (Case # KO-98-600206) of Procuring a Controlled Substance by Fraud, a felony.
4. By Order dated April 7, 1999, the Minnesota Board of Nursing suspended Ms. McKenna's practical nursing license. The suspension was based upon the following facts:
 - a. In 1995, Ms. McKenna was terminated from employment as a practical nurse at St. Mary's Medical Center in Duluth, Minnesota, as a result of theft of drugs, falsification of federal narcotic records, and patient billing discrepancies.
 - b. On July 18, 1997, Ms. McKenna was terminated from employment as a practical nurse at Cloquet Community Memorial Hospital as a result of potentially placing residents at risk by falsifying the narcotic audit record and by failing to report compromised narcotic packaging.
 - c. Ms. McKenna entered the Minnesota Health Professionals Services Program for chemical abuse on January 31, 1996. While in the program, Ms. McKenna consumed alcohol and also had two positive drug screens for narcotics. On April 21, 1998, Ms. McKenna was discharged from the program for dishonest and inaccurate reporting as well as for her criminal conviction identified in Paragraph 3 above.
 - d. Ms. McKenna admitted to the unlicensed practice of nursing in Minnesota from November 1997 through March 1998.
 - e. On August 20, 1998, Ms. McKenna engaged in nursing care of a four-year old developmentally delayed child after having consumed alcohol.
5. The Memorial Medical Center located in Ashland, Wisconsin, reported that on September 25, 1999, some time after 6:00 a.m., five 75-milligram syringes of Demerol were taken from a locked medication cart. During the morning report, Ms. McKenna asked Nurse N for keys to the medication cart. Nurse N refused to give them to her. Ms. McKenna left the morning report room shortly after 7:00 a.m. and requested the keys to the medication cart from Nurse M. Nurse M gave the keys to Ms. McKenna. Ms. McKenna was then observed at the medication cart and was also observed looking through the medication administration record. Immediately thereafter Ms. McKenna entered the bathroom where she stayed for approximately ten minutes.

Ms. McKenna then returned to the morning report room and returned the keys to Nurse N. Ms. McKenna was not assigned patients at that time and was not seen caring for any patient. She was, however, observed acting disoriented during the remainder of her duty shift. Ms. McKenna refused an interview and drug screen requested by local police, and did not return to the work place.

6. The Ashland Health and Rehabilitation Center reported that between November 12 and November 17, 1999, the morphine sulfate for Patient JA and Patient TM had been tampered with. Ms. McKenna had access to the patient medications during that time frame. Ms. McKenna failed to show up for a scheduled duty shift on November 19, 1999, and thereafter. She was terminated from employment at the Ashland Health and Rehabilitation Center on November 29, 1999.

7. On December 17, 1999, while working as a practical nurse for Dove Home Health Care, Ms. McKenna was assigned to the care of Patient X at the patient's home. Patient X was not independently mobile and did not have independent access to communication devices. Ms. McKenna called her supervisor to inform her that she was leaving Patient X and then did so without waiting for coverage or assistance to arrive. Patient X was left alone in her home without assistance for a period of time.

CONCLUSIONS OF LAW

1. The Nursing Board has jurisdiction in this matter pursuant to § 447.07, Wis. Stats.

2. By failing to file an Answer as required by § RL 2.09, Wis. Admin. Code, and by failing to appear at the hearing, Ms. McKenna is in default under § RL 2.14, Wis. Admin. Code, and the Board of Nursing may make Findings and enter an Order on the basis of the Complaint and evidence presented at the hearing.

3. Procuring a Controlled Substance by Fraud is a crime, the circumstances of which substantially relate to the practice of practical nursing, in violation of § N 7.04 (1), Wis. Admin. Code.

4. Having been disciplined by the Minnesota Board of Nursing, Ms. McKenna has committed unprofessional conduct in violation of § N 7.04 (7), Wis. Admin. Code.

5. By having committed the conduct identified in Finding of Fact #7, Ms. McKenna committed negligence in violation of §§ N 7.03 (1) (a), (b) and (c); and § N 7.04 (4), Wis. Admin. Code.

6. By having engaged in the conduct identified in Findings of Fact 3-7, Ms. McKenna committed unprofessional conduct in violation of §§ N 7.04 (2), (6), and (15), Wis. Admin. Code.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that the license of Michele L. McKenna to practice as a practical nurse in the State of Wisconsin and any existing right to renew it are **REVOKED**.

IT IS FURTHER ORDERED that the assessable costs of this proceeding be imposed against Michele L. McKenna.

OPINION

Section RL 2.14 of the Wisconsin Administrative Code provides that if a respondent fails to answer a complaint or fails to appear at a hearing, he or she is in default. If found to be in default, the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence against the respondent.

Notice of Hearing as well as an Amended Notice of Hearing and Complaint were sent to Ms. McKenna both by certified mail and by regular U.S. mail. However, Ms. McKenna did not file an answer to the above-captioned complaint, nor did she appear at the scheduled hearing. As a result, Ms. McKenna is in default and has effectively admitted all of the allegations contained in the complaint.

By Order dated April 7, 1999, the Minnesota Board of Nursing suspended Ms. McKenna's practical nursing license. The Minnesota Board did so after Ms. McKenna had stolen and ingested narcotics, falsified records, and worked without a license. In addition, Ms. McKenna engaged in an assortment of unprofessional conduct in Wisconsin. While working as a practical nurse in Ashland, Wisconsin, for instance, Ms. McKenna took and ingested Demerol from a medication cart and was subsequently observed acting disoriented for the remainder of her shift. She did not return to work following that incident. Ms. McKenna was also suspected of having wrongfully taken morphine from a medication cart while working at the Ashland Health and Rehabilitation Center. She was ultimately terminated from her job there. Finally, while working as a home health care nurse, Ms. McKenna abandoned a patient who was not independently mobile and who was unable to contact anyone for assistance.

Without question, Ms. McKenna's conduct was extremely unprofessional. Her behavior demonstrates that she is neither trustworthy, nor reliable. Indeed, at this point, she poses a danger to any patient she might treat.

The question therefore remains as to what the appropriate form of discipline is for Ms. McKenna. Revocation of her license has been recommended. It is well established that the objectives of professional discipline include the

following: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*. 41 Wis. 2d 481, 485 (1969).

There is nothing in the record to suggest that imposing any discipline short of revocation would have a rehabilitative effect on Ms. McKenna or that she even has an interest in being rehabilitated. As to the deterrence of others, absent some mitigating evidence, imposing anything less than revocation would not aid in deterrence, but may instead wrongly encourage others to engage in similar conduct. Accordingly, revocation remains the only appropriate way in which to safeguard the public.

Dated this 21st day of April, 2000, at Madison, Wisconsin.

STATE OF WISCONSIN

DEPARTMENT OF REGULATION & LICENSING

1400 East Washington Avenue

P.O. Box 8935

Madison, Wisconsin 53708

Telephone: (608) 266-5836

FAX: (608) 267-0644

Jacquelynn B. Rothstein

Administrative Law Judge