

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

NANCY K. OLSON-PETERS, L.P.N.,

FINAL DECISION AND ORDER

RESPONDENT

LS0201046NUR

PARTIES

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

Nancy K. Olson-Peters

5843 North 78th Street

Milwaukee, WI 53218

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

This proceeding was commenced by the filing of a Notice of Hearing and Complaint on January 4, 2002. Respondent's Answer was filed on or about February 25, 2002. A hearing was held on April 11, 2002. Atty. James W. Harris appeared on behalf of the Department of Regulation and Licensing, Division of Enforcement. The respondent, Nancy K. Olson-Peters, did not appear at the hearing. The Administrative Law Judge filed her Proposed Decision on May 10, 2002, and the Board of Nursing considered the matter on June 6, 2002.

Based upon the entire record herein, the Board of Nursing makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. The respondent, Nancy K. Olson-Peters (d.o.b. 06/17/62) is duly licensed in the state of Wisconsin as a licensed practical nurse (license #27254). Respondent's license was first granted on June 6, 1984.
2. Respondent's latest address on file with the Department of Regulation and Licensing is 5843 North 78th Street, Milwaukee, WI 53218.
3. On March 8, 2001, while employed as an agency nurse with Vitas Healthcare Corporation, Ms. Olson-Peters was assigned to work the midnight to 8:00 a.m. shift at a healthcare facility.
4. In the late afternoon on March 8, 2001, Ms. Olson-Peters appeared at Luther Manor, a facility where she was not assigned any nursing duty, but where she had worked approximately three weeks before. Ms. Olson-Peters was wearing dark slacks and a nurse's smock. She approached CS in a facility hallway, where CS was pushing his mother, resident AS, in a wheelchair. She took control of the resident from CS and transported the resident to

her room. Then, Ms. Olson-Peters proceeded to provide person care services to AS. Ms. Olson-Peters had never been assigned the care of resident AS and had not been directed by any staff member of Luther Manor to provide any nursing services that day.

5. On March 8, 2001, resident AS wore a Duragesic patch. A Duragesic patch is a Schedule II controlled substance (narcotic) that is prescribed for patients with chronic and fairly untractable pain. If a patch is taken from a patient, the patient will likely suffer pain.

6. After Ms. Olson-Peters provided personal care services to AS, AS complained that the Duragesic patch that she had been wearing was missing. Juanita Kraft, a registered nurse on duty at that time, examined AS and confirmed that the patch was missing.

7. Nancy Olson-Peters removed the Duragesic patch worn by resident AS for her own personal benefit, then taped a piece of Micropore tape about 2 inches long on AS's chest where the patch had been applied.

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 engaging in conduct, as described in Findings of Fact 4, 5, 6 and 7 herein, respondent violated s. 441.07 (1) (b) (c) and (d), Stats.

3. By engaging in conduct, as described in Findings of Fact 4, 5, 6 and 7 herein, respondent violated s. N 7.03 (1) (a) and (b) and N 7.04 (15), Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license (#27254) of Nancy K. Olson-Peters as a licensed practical nurse be, and hereby is, **SUSPENDED** for an indefinite period of time.

IT IS FURTHER ORDERED that:

(1) Petition for Stay. Ms. Olson-Peters may petition the Board at any time for a stay of the suspension of her license. In conjunction with such petition, Ms. Olson-Peters shall submit documentation of an evaluation performed by one or more health care providers acceptable to the Board of her current use and/or dependence on controlled substances and her current mental health status. The assessor(s) shall submit a written report of his/her/their findings directly to the Board, including: 1) findings regarding diagnoses; 2) recommendations (if any) for treatment; 3) an evaluation of Ms. Olson-Peters' level of cooperation in the assessment process; 4) work restriction recommendations, and 5) Ms. Olson-Peters' prognosis. The report shall include a certification stating that Ms. Olson-Peters is fit to safely and competently return to the active practice of nursing. The assessment shall occur within thirty (30) days prior to the date of its submission and reflect the fact that the person(s) performing the assessment received a copy of this Order.

(2) Board Action. Upon its determination that Ms. Olson-Peters can safely and competently return to the active practice of nursing, the Board may stay the suspension for a period of three (3) months, conditioned upon compliance with the conditions and limitations set forth in paragraph (3).

(a) 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.

(b) Upon a showing by respondent of complete, successful and continuous compliance for a period of five (5) years with the terms of paragraph (3), below, the Board may grant a petition by respondent for return of full licensure if it determines that respondent may safely and competently resume practice as a licensed practical nurse.

(3) Conditions of Stay

(a) If the assessment report referred to in paragraph (1) above recommends continued therapy, respondent shall maintain successful participation in a program of treatment at a health care facility acceptable to the Board. As part of treatment, respondent shall attend therapy on a schedule as recommended by her therapist(s); but therapy shall be conducted at least four times per month.

(b) If continued therapy is required under the stay Order, respondent shall arrange for submission of quarterly reports to the Board from her therapist(s) evaluating her attendance and progress in therapy. If the assessment recommends work restrictions, respondent shall comply with all restrictions recommended.

(c) Respondent shall provide the Board with current releases complying with state and federal laws,

authorizing release and access to the records of the health care provider(s) performing her assessment and, if applicable, those providing treatment to her.

(d) Within six (6) months of the date of the initial Board Order granting stay of suspension, respondent shall certify to the Board of Nursing the successful completion of an approved ethics course. Respondent shall submit a course outline for approval by a Board designee within two (2) months of the date of the stay Order. The course outline shall include the name of the institution providing the instruction, the name of the instructor, and the course content.

(e) Respondent shall attend Narcotics Anonymous meetings, or an equivalent program for recovering professionals, upon a frequency as recommended by the supervising health care provider, but not less than one meeting per week.

(f) Within thirty (30) days from the date hereof, Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the department pursuant to Wis. Admin. Code § RL 7.11, ("Approved Program").

1. The Department Monitor, Board or Board designee shall provide to the Respondent a list of Approved Programs, however, Respondent is solely responsible for timely enrollment in any such Approved Program.

2. Unless otherwise ordered by the Board, the Approved Program shall require the testing of urine specimens at a frequency of not less than 52 times each year.

3. The Department Monitor, Board or Board designee shall determine the tests to be performed upon the urine specimens.

4. Respondent shall comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program, including but not limited to;

- a. contact with the Approved Program as directed on a daily basis, including weekends and holidays, and;

- b. production of a urine specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.

5. The Board in its discretion without a hearing and without further notice to Respondent may modify this Order to require the submission of hair or breath specimens or that any urine or hair specimen be furnished in a directly witnessed manner.

6. All expenses of enrollment and participation in the Approved Program shall be borne by Respondent. Respondent shall keep any account for such payments current in all respects.

7. For purposes of further Board action under this Order it is rebuttably presumed that all confirmed positive test results are valid. Respondent has the burden of proof to establish by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody which causes an invalid confirmed positive test result.

(g) Respondent shall abstain from personal use of controlled substances, as defined in s. 961.01 (4), Stats., except when necessitated by a legitimate medical condition and then only with the prior approval of the supervising health care provider.

(h) Respondent shall be responsible for all costs associated with the assessment referred to in paragraph (1) above, and for all treatment, education and reporting required under the terms of the stay Order.

(i) Respondent shall provide all current and prospective nursing employers with a copy of this Final Decision and Order and any subsequent stay Orders; 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.

(j) Respondent must practice under the direct supervision of a registered nurse, and may not therefore be employed in home health care or as a pool nurse.

(k) Respondent shall refrain from access to controlled substances in her employment setting.

(4) 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. § 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.

EXPLANATION OF VARIANCE

The board largely agrees with the ALJ's recommended Order. A number of modifications have been made, however, to better insure that Respondent's practice, once resumed, will not constitute a danger to the health, safety and welfare of patient of public.

First, the ALJ recommended that therapy be conducted on a schedule as recommended by the respondent's therapist, or upon a schedule determined by the board. The board has determined that at the outset, therapy should be conducted not less than four times per month.

Second, the ALJ recommended weekly urine screens. The standard drug monitoring program utilized by the Board of nursing requires 52 screens per year, with the respondent required to call the program daily to determine whether a screen has been scheduled. This non-substantive change to the Order has therefore been made.

Finally, the ALJ recommended that the Order included any limitations on Respondent's practice as the board deems appropriate. The board concludes that Respondent should initially practice only under direct supervision, and that she refrain from access to controlled substances in her employment setting.

Dated this 21st day of June, 2002.

STATE OF WISCONSIN

BOARD OF NURSING

Linda Sanner, RN

Chair