

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
	:	
RENEE L. BACON, RN,	:	LS0212091NUR
RESPONDENT.	:	

Division of Enforcement
02 NUR 060

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

Renee L. Bacon, RN
3542 N. 5th St.
Milwaukee, WI 53212

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 Wisconsin Board of Nursing received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Renee L. Bacon, RN and by Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Board of Nursing makes the following Findings of Fact, Conclusion of Law and Order.

FINDINGS OF FACT

1. Renee L. Bacon, RN, Respondent herein, 3542 N. 5th Street, Milwaukee, Wisconsin, 53212, was born on 7/24/59 and is licensed to practice as a registered nurse in the state of Wisconsin, license #104769, said license having been granted on 9/9/90.

2. On 2/11/98, Respondent was convicted of party to the crime of possession of cocaine with intent to deliver in violation of Wis. Stats. secs. 961.41(1m)(cm)4, 961.16(2)(b)1 and 939.05.
3. Respondent was convicted of a crime substantially related to the practice of professional nursing.
4. Respondent was sentenced to 84 months in prison. She was paroled on 1/8/02 and remains on parole to date.
5. Respondent, prior to her conviction, routinely used cocaine and marijuana.
6. Respondent, while she was incarcerated, participated in a 90-day drug rehabilitation program followed by a 12-week aftercare maintenance program.
7. Respondent currently provides urine specimens for drug screening at the time of her regularly scheduled meetings with her parole officer if the parole office requests a specimen at the time of the scheduled meeting.
8. Respondent has been in full compliance with the terms and conditions of her parole and has not had any positive urine screens.
9. Respondent is not currently involved in any regular program of therapy, does not participate in any support groups including AA or NA and is not subject to a random monitored urine, blood or hair drug screening program. Respondent does have a counselor who she consults with as she deems necessary.
10. On April 2, 2003, Respondent participated in an AODA assessment performed by an individual approved by the case advisor. The terms of the Stipulation and this Final Decision and Order were developed after review and consideration of the results of the AODA assessment.
11. Respondent is currently employed at the Select Specialty Hospital at St. Lukes Hospital in Milwaukee, Wisconsin and has been so employed since October 2002. Respondent practices at this facility as a registered nurse and serves in the capacity of night charge nurse. In her employment at this facility, Respondent has access to and control over controlled substances.
12. Respondent is currently enrolled full time in a degree program in registered nursing at Alverno College with an anticipated graduation date of May 2004.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction to act in this matter pursuant to Wis. Stats. sec. 441.07.
2. The Wisconsin Board of Nursing has the authority to resolve this disciplinary proceeding by stipulation pursuant to Wis. Stats. sec. 227.44(5).

3. Respondent's conduct as herein described was unprofessional conduct contrary to Wis. Stat. sec. 441.07(1)(d) and Wis. Admin. Code sec. N 7.04(1) in that she was convicted of a crime substantially related to the practice of professional nursing.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED that effective on the date of this Order, the license of Renee L. Bacon to practice as a registered nurse in the state of Wisconsin is SUSPENDED for an INDEFINITE period.

The suspension is hereby STAYED for a period of three (3) months, conditioned upon compliance with the conditions and limitations outlined below.

a. Respondent may apply for consecutive three (3) month extensions of the stay of suspension, which shall be granted upon acceptable demonstration of compliance with the conditions and limitations imposed on the Respondent for rehabilitation and practice during the prior three (3) month period.

b. The Board may without hearing deny an application for extension of the stay or summarily suspend Respondent's license or commence other appropriate action, upon receipt of information that respondent has violated any of the terms or conditions of this Order or upon receipt of information from either Respondent's Supervising Health Care Provider or Respondent's employer indicating that Respondent cannot safely continue to practice nursing. If the Board denies the petition by the respondent for an extension of the stay, the Board shall afford an opportunity for hearing in accordance with the procedures set forth in Wis. Admin. Code ch. RL 1 upon timely receipt of a request for hearing. If the Board summarily suspends Respondent's license to practice nursing, the provisions of Wis. Stats. sec. 227.51(3) and Wis. Admin. Code ch. RL 6 shall apply.

c. Upon a showing by respondent of continuous, successful compliance for a period of at least two (2) years, while actively engaged in the practice of nursing, with all of the terms of this Order, the Board may grant a petition by the Respondent for return of full licensure. (See below.)

IT IS FURTHER ORDERED, that the license to practice of Respondent shall be LIMITED as follows:

REHABILITATION, MONITORING AND TREATMENT

Supervising Health Care Provider

1. The Respondent shall within 14 days of the date of this Final Decision and Order recommend a qualified individual to serve as Respondent's drug and alcohol treatment therapist and Supervising Health Care Provider. The Board or the Board's designee shall either approve or reject this individual as the therapist and Supervising Health Care Provider. If the Board rejects the individual recommended by the Respondent, the Respondent may recommend another individual to serve in this capacity within 7 days of receiving notice of the rejection. The Board, if it rejects the initial recommendation made by Respondent, may, without further recommendations from the Respondent designate the individual to serve as the therapists and Supervising Health Care Provider.

2. The Respondent shall provide a copy of this Final Decision and Order, and all amendments thereto, to the Supervising Health Care Provider within 7 days of the date on which the Board or the Board's designee approves the Supervising Health Care Provider or, if amendments to this Final Decision and Order are made, within 7 days of the date of the amendments.

Treatment Required

3. The rehabilitation program shall include and Respondent shall participate in individual and/or group therapy sessions as the therapist shall direct upon a schedule as determined by the therapist, but not less than one therapy session every other month. Such therapy shall be conducted by the therapist, or another qualified therapists as designated by the therapist and acceptable to the Board. After the first year of stayed suspension, this requirement for therapy sessions may be modified only by order of the Board upon written petition and a written recommendation by the therapist expressly supporting the modification requested. A denial of a petition for modification shall not be deemed a denial of a license under Wis. Stat. secs. 227.01(3) or 227.42, or Wis. Admin. Code ch. RL 1, and shall not be subject to any right to further hearing or appeal.

Sobriety

4. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stats. sec. 961.01(4), except when necessitated by a legitimate medical condition and then only with the prior approval of the Supervising Health Care Provider.

5. Respondent shall abstain from all personal use of alcohol.

6. Respondent shall in addition refrain from the consumption of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, or which may create false positive screening results, or which may interfere with Respondent's treatment and rehabilitation. Respondent shall report all medications and drugs, over-the-counter or prescription, taken by Respondent to the Supervising Health Care Provider within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Within 24 hours of a request by the Supervising Health Care Provider or the Board or its designee, Respondent shall provide releases which comply with state and federal laws authorizing release of all health care records by the person who prescribed, dispensed, administered or ordered this medication for Respondent. These releases shall also authorize the Supervising Health Care Provider, the Board or its designee to discuss the Respondent's health care with the person who prescribed, dispensed, administered or ordered this medication. The terms of this paragraph shall not be deemed to modify or negate Respondent's obligations as set forth in this Order.

Department Monitor

7. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including receiving and coordinating all reports and petitions, and requesting additional monitoring and surveillance. The Department Monitor may be reached as follows:

Department Monitor

Department of Regulation Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

Releases

8. Respondent shall provide and keep on file with the Supervising Health Care Provider, all treatment facilities and personnel, laboratories and collections sites current releases which comply with state and federal laws authorizing release of all urine, blood and hair specimen screen results and medical and treatment records and reports to, and permitting the Supervising Health Care Provider and all treating physicians and therapists to disclose and discuss the progress of respondent's treatment and rehabilitation with the Board or any member thereof, or with any employee of the Department of Regulation and Licensing acting under the authority of the Board. Copies of these releases shall be filed simultaneously with the Department Monitor.

Drug and Alcohol Screens

9. Within thirty (30) days from the date of the signing of this Order, respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department pursuant to Wis. Adm. Code sec. RL 7.11, ("Approved Program").

- a. The Department Monitor, Board or Board designee shall provide Respondent with a list of Approved Programs, however, Respondent is solely responsible for timely enrollment in any such Approved Program.
- b. Unless otherwise ordered by the Board, the Approved Program shall require the testing of urine specimens at a frequency of not less than one (1) time per month, said testing to be performed on a random basis each month. After the first year of stayed suspension, this requirement may be modified only by order of the Board upon written petition and a written recommendation by the therapist expressly supporting the modifications requested. A denial of a petition for modification shall not be deemed a denial of a license under Wis. Stats. secs. 227.01(3) or 227.42, or Wis. Admin. Code ch. RL 1 and shall not be subject to any right to further hearing or appeal.
- c. The Department Monitor, Board or Board designee shall determine the tests to be performed upon the urine specimens.
- d. Respondent shall comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program, including but not limited to;
 - (i.) contact with the Approved Program as directed on a daily basis, including weekends and holidays, and;
 - (ii.) production of a urine specimen at a collection site designated by the Approved Program within five(5) hours of notification of a test.
- e. 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.
- f. 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.
- g. 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.

10. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Supervising Health Care Provider shall determine to be appropriate to clarify or confirm the positive or suspected positive urine, blood or hair specimen test results.

Required Reporting by Supervising Health Care Provider, and laboratories

11. The Supervising Health Care Provider shall report immediately to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement by FAX or telephonic communication: any failure of Respondent to provide a urine, blood or hair specimen within five (5) hours from the time it was requested; or of any inability to locate Respondent to request a specimen. The laboratory shall immediately report all urine specimens suspected to have been tampered with and all urine, blood or hair specimens which are positive or suspected positive for controlled substances or alcohol to the Department Monitor and to the Supervising Health Care Provider.

12. The laboratory shall within 48 hours of completion of each drug or alcohol analysis mail the report from **all** specimens requested of Respondent under this Order to the Department Monitor (regardless of whether the laboratory analysis of the specimen was positive or negative for controlled substances, their metabolites or alcohol). Each report shall state the date and time the specimen was requested; the date and time the specimen was collected; the results of the tests performed to detect tampering; and the results of the laboratory analysis for the presence of controlled substances and alcohol.

13. The Supervising Health Care Provider shall submit formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, on a schedule as directed by the Department Monitor. These reports shall assess Respondent's progress in the drug and alcohol rehabilitation program and summarize the results of the urine, blood or hair specimen analyses. The Supervising Health Care Provider shall report immediately to the Department Monitor [Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935, FAX (608)266-2264, telephone no. (608)261-7938] any violation or suspected violation of the Board's Final Decision and Order.

Required reporting by Respondent

14. Respondent is responsible for compliance with all of the terms and conditions of this Final Decision and Order. It is the responsibility of Respondent to promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order, including any failures of the Supervising Health Care Provider, treatment facility, laboratory or collection sites to conform to the terms and conditions of this Order.

Facility approval

15. If the Board determines that the Supervising Health Care Provider, treatment facility, laboratory or collection sites have failed to satisfy the terms and conditions of this Final Decision and Order, the Board may, at its sole discretion, direct that Respondent continue treatment and rehabilitation under the direction of another Supervising Health Care Provider, treatment facility, laboratory or collection site which will conform to the terms and conditions of this Final Decision and Order.

PETITIONS FOR MODIFICATION OF TERMS

16. Respondent may petition the Board for modification of the terms of this limited license. Any such petition shall be accompanied by a written recommendation from Respondent's Supervising Health Care Provider expressly supporting the specific modifications sought. Denial of the petition in whole or in part shall not be considered a

denial of a license within the meaning of Wis. Stats. sec. 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on any denial in whole or in part of the petition for modification of the limited license.

17. After two (2) years of continuous active professional practice under this Order and without relapse, and upon recommendation of the Supervising Health Care Provider, Respondent may petition the Board for a termination of all limitations on the license, 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 Wis. Stats. sec. 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on any denial in whole or in part of the petition for termination of the limitations and restoration of unlimited licensure.

EXPENSES OF TREATMENT AND MONITORING

18. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision, therapy and any other expenses associated with compliance with the terms of this Order.

PRACTICE LIMITATIONS

Controlled Substance Access

19. Respondent may continue her employment as a registered nurse with Select Specialty Hospital at St. Lukes Hospital in Milwaukee, Wisconsin. Employment by any other employer shall require prior approval by the Board. Respondent shall not engage in agency or pool nursing and shall not practice nursing at any independent work sites.

20. Respondent, on the date of the execution of this Order, is not restricted from access to or administration of controlled substances in the exercise of her nursing duties at her approved place of employment. However, in the event that the Supervising Health Care Provider recommends restrictions upon access to controlled substances, the Board may order such restrictions and Respondent agrees to comply.

Reporting Required

21. Respondent shall arrange for her employer to provide formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance.

Change in Address or Work Status

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

23. Respondent shall furnish a copy of this Order to all present employers immediately upon issuance of this Order, and to any prospective employer when respondent applies for employment as a health care provider.

IT IS FURTHER ORDERED: that respondent shall pay partial costs of \$200, within 60 days of this Order.

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.

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

WISCONSIN BOARD OF NURSING

By: Linda Sanner

10-3-03

Board Chair

Date