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BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : LS0312052NUR
ELIZABETH E. HESS, R.N., :
RESPONDENT. :

FINAL DECISION AND ORDER

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

Elizabeth E. Hess, R.N.
3340 S. 15th Place
Milwaukee, WI 53215

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 of Nursing. 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. Elizabeth E. Hess, R.N., Respondent, date of birth August 10, 1966, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 120997, which was first granted August 17, 1995.

2. Respondent's last address reported to the Department of Regulation and Licensing is 3340 S. 15th Place, Milwaukee, WI 53215.

3. On July 7, 2000, the Board issued a Final Decision and Order in Disciplinary Proceedings against Elizabeth E. Hess, case number LS-0007077-NUR. In that matter:

a. The Board found:

- i. Respondent, while employed as a registered nurse at Sunrise Care Center in Milwaukee, had diverted controlled substances from a locked medical cabinet for her personal use.
- ii. Respondent had violated Wis. Adm. Code §§ N 7.03(2) and N 7.04(1), (2) and (15).

b. The Board ordered:

- i. Respondent's license be suspended for an indefinite period of time.
- ii. Successive 3-month stays of the suspension upon compliance with limitations placed on Respondent's license. The limitations related to rehabilitation, monitoring, treatment and practice.

4. Respondent's October 30, 2000 request for a 3-month stay was denied by the Board at its January 5, 2001 meeting based on evidence that Respondent had not fully complied with all terms and conditions of her limited license during the previous 3 months.

5. Respondent's license continued to be suspended until September 14, 2001 when the Board granted a 3-month stay based on compliance with the limitations.

6. On December 18, 2001, the Board denied Respondent's request for an additional 3-month stay, based on there being insufficient evidence that Respondent had fully complied with all terms and conditions of her limited license during the previous 3 months.

7. On March 11, 2002, the Board denied Respondent's request for a 3-month stay, based on evidence that Respondent's urine screens had not been compliant with the limitations of the Board's Order.

8. On March 12, 2003, the Board denied Respondent's request for a 3-month stay, based on evidence that Respondent had positive urine screens in November 2002.

9. Respondent's license continued to be suspended until May 16, 2003 when the Board granted a 3-month stay based on compliance with the limitations. By order of the Board dated September 9, 2003, the stay was continued for 3 more months.

10. The original order of the Board required Respondent to obtain approval of all work sites. On October 15, 2003, Respondent was approved to work at Clement Manor in Greenfield, Wisconsin.

11. In early November 2003, Respondent called the Department Monitor and said that her work site supervisor wanted to know what drugs were being tested by Respondent's urine screens. The Department Monitor did not respond to Respondent's question. Instead, the Department Monitor called the supervisor and asked whether the supervisor had made the inquiry. The supervisor said that she had never asked for that information.

12. On November 26, 2003, Respondent, while working at Clement Manor, diverted a resident's Duragesic patch for Respondent's personal use. Duragesic is a brand of fentanyl, a schedule II controlled substance.

13. Possession of a schedule II controlled substance without the order of a practitioner is prohibited by § 961.41(3g)(am), which is a law substantially related to practice under Respondent's license.

14. By diverting the Duragesic patch for her personal use, Respondent has violated the terms of her limited license.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to § 441.07, Stats.
2. The Wisconsin Board of Nursing has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.
3. Respondent, by engaging in the conduct set out above, has violated Wis. Adm. Code § N 7.04(1) and (14), which subjects Respondent to discipline pursuant to § 441.07(1)(b), (c), (d) and (e), Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the SURRENDER by Elizabeth E. Hess of her license as a registered nurse in the state of Wisconsin is hereby ACCEPTED, effective immediately.

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."

Dated at Madison, Wisconsin this 5th day of December, 2003.

Linda M. Sanner, R.N.

Chairperson

Board of Nursing