

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	LS0403041NUR
DAWN C. BENKOWSKI, L.P.N.,	:	
RESPONDENT.	:	

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FINAL DECISION AND ORDER

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

Dawn C. Benkowski, L.P.N.  
3719 S. Chicago Avenue # 4  
South Milwaukee, WI 53172

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. Dawn C. Benkowski, L.P.N., Respondent, date of birth April 18, 1973, is licensed by the Wisconsin Board of Nursing as a licensed practical nurse in the state of Wisconsin pursuant to license number 32107, which was first granted November 20, 1993.

2. Respondent's last address reported to the Department of Regulation and Licensing is 3719 S. Chicago Avenue #4, South Milwaukee, WI 53172.

3. From January 2, 2002 to October 1, 2002, Respondent was employed as a licensed practical nurse at Langlade Memorial Hospital in Antigo, Wisconsin.

4. On September 3, 2002, Respondent was admitted to St. Joseph's Hospital in Marshfield, Wisconsin. During that admission, Respondent:

- a. Requested admission for treatment for drug and alcohol dependence.
- b. Underwent detoxification and suffered from acute withdrawal syndrome.
- c. Was diagnosed with alcohol, cannabis, cocaine and opioid dependence.
- d. Was also diagnosed with mood disorders and an Axis II disorder.

e. Admitted that she had stolen controlled substances from Langlade Memorial Hospital during the entire time she had been employed there. The drugs included schedule II and III controlled substances including, Oxycontin brand of oxycodone, morphine, Darvocet brand of propoxyphene, Vicodin brand of hydrocodone and Duragesic brand of fentanyl patches.

f. Self-reported herself to the Department of Regulation and Licensing (Department) on September 12, 2002. She requested participation in the Impaired Professionals Procedure (IPP), a non-disciplinary monitoring program that may be offered to credential holders with alcohol and/or drug issues, which allows participants to obtain treatment and ongoing aftercare while returning to safe practice.

5. Respondent's theft of controlled substances from Langlade Memorial Hospital was in violation of § 961.41(3g)(am), Stats., [possession of a schedule II controlled substance without the order of a practitioner] and § 943.20(1)(a), Stats., [theft], which are laws substantially related to practice under her license.

6. Respondent successfully completed the inpatient treatment program at Marshfield-St. Joseph's Hospital and was discharged on September 24, 2002 with the following recommendations:

participate in active outpatient counseling

be subject to random urinalyses

follow all requirements set out by the Department of Regulation & Licensing IPP

7. On September 25, 2002, Respondent reported her diversion of controlled substances to her nursing supervisor at Langlade Memorial Hospital and was terminated from her employment on October 1, 2002.

8. On December 27, 2002, Respondent signed an "Agreement for Participation" in IPP, consenting to abide by various conditions set out in the contract:

a. The conditions related to rehabilitation, monitoring, treatment and practice.

b. Respondent agreed to submit to random, monitored alcohol and drug screens at least 4 times per month.

c. Respondent agreed to be abstinent of alcohol, controlled substances and prescription drugs not prescribed for a valid medical purpose.

d. Respondent agreed to have her physician provide a written report to IPP within 3 days of prescribing any medication for a valid medical purpose.

9. Respondent was prescribed hydrocodone, a controlled substance, by four different physicians on December 14, 21, 24 and 27, 2002. She was prescribed oxycodone, another controlled substance, by a fifth physician on December 31. Respondent sent IPP copies of the prescriptions, but no supporting information was sent by any of the physicians.

10. On January 14, 2003, a sixth physician provided a note written on a prescription sheet that Respondent was being treated at a pain control center and was receiving epidural steroid injections and that she was being prescribed Ultracet, which is not a controlled substance.

11. Respondent sent IPP a copy of a January 21, 2003 prescription from the sixth physician for propoxyphene, a controlled substance, with a note the Ultracet was discontinued because of side effects. No supporting information was sent by the physician. That was the last prescription information received by IPP.

12. Respondent began providing random urines for drug screens. Urines provided on the following dates showed

positive for controlled substances:

- a. 4/18/03 – propoxyphene
- b. 4/30/03 – morphine and hydromorphone
- c. 5/15/03 – morphine
- d. 5/19/03 – morphine
- e. 5/21/03 – morphine and hydromorphone
- f. 5/30/03 – codeine, morphine and hydromorphone
- g. 6/05/03 – morphine, hydromorphone & propoxyphene
- h. 6/10/03 – morphine
- i. 7/01/03 – hydrocodone
- j. 7/14/03 – cocaine
- k. 7/18/03 – cocaine & propoxyphene

13. On July 18, 2003, prior to receiving the last two drug screen results, IPP sent Respondent a letter, which :

- a. Advised her that during a 7/11/03 review, the IPP advisor became concerned about recent multiple positive drug screens and the lack of current prescriptions on file to correspond with the results.
- b. Requested that Respondent send the prescriptions ASAP.
- c. Notified Respondent of the concern that multiple physicians had written the earlier prescriptions for controlled substances.
- d. Recommended that Respondent receive prescriptions from only one primary care provider and not from emergency room physicians.
- e. Requested a letter from her primary care provider stating Respondent is safe to practice and capable of competent nursing practice while under the influence of the prescribed medications and listing all of Respondent's current medications.
- f. Warned that if the materials were not received by July 31, the Board would reconsider her participation in IPP.

14. On July 28, 2003, Respondent called IPP and said that she would not be sending a letter from her physician. On August 4, 2003, the IPP Coordinator informed Respondent that the Board had dismissed her from the IPP based on substantial violations of her "Agreement for Participation."

15. On October 8, 2003, IPP received a scheduled report from Respondent's therapist, who was unaware that Respondent had been dismissed from IPP. The report indicated:

- a. Respondent had self-reported a relapse in early September 2003.
- b. Respondent had failed to follow through with appointments and had ongoing associations with others

with addiction problems.

c. The therapist did not feel Respondent was able to safely practice her profession due to ongoing relapse issues and irresponsible behavior.

d. Respondent's prognosis was very guarded/poor.

16. On November 19, 2003, IPP received another scheduled report from Respondent's therapist, who was still unaware that Respondent had been dismissed from IPP. The report indicated Respondent had acknowledged another relapse and had relocated to the Milwaukee area. Prognosis remained the same.

17. Respondent sent a letter dated December 9, 2003 to the Department expressing her desire to surrender her license as a licensed practical nurse.

### 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 in Finding of Fact 4e above, has violated laws substantially relate to practice under her license, and has committed misconduct and unprofessional conduct as defined by Wis. Adm. Code § N 7.04(1), which subjects Respondent to discipline pursuant to § 441.07(1)(d), Stats.

4. Respondent, by engaging in the conduct set out in Finding of Fact 4e above, has administered, supplied and obtained drugs other than in the course of legitimate practice and as otherwise prohibited by law, and has committed misconduct and unprofessional conduct as defined by Wis. Adm. Code § N 7.04(2), which subjects Respondent to discipline pursuant to § 441.07(1)(d), Stats.

5. Respondent, by engaging in the conduct set out above, has abused drugs to an extent that such use impairs the ability of the licensee to safely or reliably practice, as defined by Wis. Adm. Code § N 7.03(2), which subjects Respondent to discipline pursuant to § 441.07(1)(c), Stats.

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the SURRENDER by Dawn C. Benkowski, LPN, Respondent of her license as a licensed practical 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 3<sup>rd</sup> day of March, 2004.

Jacqueline A. Johnsrud, R.N.  
Chairperson  
Board of Nursing