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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	LS0404221NUR
ANNE E. ALLEN-HEATH, R.N.,	:	
RESPONDENT.	:	

FINAL DECISION AND ORDER

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

Anne E. Allen-Heath, R.N.
921 Milwaukee Road
Beloit, WI 53511

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. Anne E. Allen-Heath, R.N., Respondent, date of birth July 8, 1953, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 87807, which was first granted August 21, 1984.
2. Respondent's last address reported to the Department of Regulation and Licensing is 921 Milwaukee Road, Beloit, WI 53511.

PRIOR DISCIPLINARY ACTION

3. On January 6, 1995, the Board issued a Final Decision and Order imposing discipline on Respondent, which:
 - a. Found that for about a year ending in May of 1994, Respondent had diverted Demerol brand of meperidine, a schedule 2 controlled substance, from the hospital where she was employed.
 - b. Found that on June 18, 1994, Respondent had completed an inpatient assessment and treatment program and had been diagnosed with opiate dependency, continuous; alcohol dependency, continuous; and dysthymia.
 - c. Suspended her license for 2 years, but stayed the suspension so long as Respondent was in compliance with treatment, monitoring and practice conditions.
4. On February 4, 1997, the stayed suspension ended, all conditions were lifted and Respondent received an

unlimited license.

COUNT I

5. From June 30, 1997 until her resignation on May 19, 2000, Respondent was employed as a registered nurse at Beloit Health and Rehabilitation Center (Center) in Beloit, Wisconsin. Respondent functioned as a Charge Nurse at the facility.

6. Mr. A was a resident at the Center from March 2, 2000 until he was discharged on June 9, 2000. On admission to the Center, Mr. A's physician ordered injectable morphine sulfate 2 mg, a schedule 2 controlled substance, for pain relief, every one to two hours prn. (as needed).

7. Mr. A's rehabilitation went well and his pain gradually decreased while he was at the Center. From his date of admission through March 14, the injectable morphine was administered at a uniform frequency by the nurses on the three eight hour shifts.

8. That changed beginning March 15, when the frequency with which all other nurses administered the morphine to Mr. A decreased, but Respondent continued to administer the morphine at the previous rate. On 36 of the 65 days from March 15 through May 18, 2000, Respondent administered up to eight doses of injectable morphine to Mr. A during her shift and no other nurse noted administering any injectable morphine on those days. From March 15 to May 19, Respondent administered morphine to Mr. A on 246 occasions while all other nurses only administered morphine to him on 24 occasions.

9. On May 19, 2000, an investigation was commenced at the Center when a case manager alerted the Director of Nursing (DON) to the great difference in frequency with which Respondent administered injectable morphine to Mr. A when compared to all other nurses. Respondent was questioned and denied diverting the morphine. Respondent was suspended pending the results of the investigation and sent home. No drug test was conducted. On May 23, 2000, Respondent called the DON and told him she was resigning.

10. On November 20, 2000, Respondent was interviewed by an investigator for the Division of Enforcement (Division), which was investigating the matter for the Board. In that interview, Respondent denied relapsing or using drugs since completing the terms of the Board's Order in 1997.

11. By letter dated February 23, 2004 in response to another inquiry by a Division investigator, Respondent admitting taking the morphine for her personal use, which is the obtaining of a drug other than in the course of legitimate practice and as otherwise prohibited by law.

COUNT II

12. From May 2001 until her employment was terminated in April 2002, Respondent was employed as a registered nurse at Meadow Park Health Center in Clinton, Wisconsin.

13. Respondent was discharged from Meadow Park for allegedly failing to count controlled substances between shifts. In an interview with a Division attorney on March 5, 2004, Respondent admitted that she had diverted morphine during her employment at Meadow Park. The Division was unaware of this diversion before the admission.

ALL COUNTS

14. On June 26, 2002, Respondent was voluntarily admitted to Rock County Psychiatric Hospital for detoxification from alcohol. Respondent had increased her consumption of alcohol since losing her job at Meadow Park Health Center. She wanted to become sober, but feared withdrawal symptoms if she tried to stop drinking. At the time of admission, Respondent's blood alcohol level was .34. Respondent did not have withdrawals and was discharged the next day.

15. Respondent contends that she has not consumed alcohol or controlled substances since being detoxed on June 26, 2002. Respondent has not had any drug or alcohol treatment during that time. Respondent credits her

continued recovery to her increased spirituality.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to § 441.07, Stats., and authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.

2. Respondent, by obtaining a drug other than in the course of legitimate practice and as otherwise prohibited by law set out in Counts I and II above, has committed misconduct and unprofessional conduct, as defined by Wis. Adm. Code § NR 7.04(2) and is subject to discipline pursuant to § 441.07(1)(d), Stats. [Counts I and II]

ORDER

IT IS HEREBY ORDERED, effective the date of this Order:

SUSPENSION

A. The license of Anne E. Allen-Heath, R.N., to practice as a registered nurse in the State of Wisconsin is SUSPENDED for a period of FIVE (5) years.

STAY OF SUSPENSION

- B.1. The suspension shall be stayed upon Respondent providing proof, which is determined by the Board or its designee to be sufficient, that Respondent is in compliance with the provisions of Sections C and D of this Order.
- B.2. The Board, or its designee, may without hearing remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of Sections C or D of this Order.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
- (a) Mailing to Respondent's last-known address provided to the Department of Regulation and Licensing pursuant to § 440.11, Stats., or
 - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is inappropriate for the suspension to remain in effect. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.
- B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in ch. RL 2, Wis. Adm. Code. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

CONDITION AND LIMITATIONS

Treatment Required

- C.1. Within 14 days of this Order, Respondent shall have entered into, and shall continue, in a drug and alcohol treatment program at a treatment facility (Treater) acceptable to the Board, or its designee. Respondent shall participate in, cooperate with and follow all treatment recommended by Treater.
- C.2. Respondent shall provide Treater with a copy of this Final Decision and Order immediately.

- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation, drug monitoring and treatment program as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as Treater, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in the drug and alcohol treatment program. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department of Regulation and Licensing, Division of Enforcement to: (a) obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

AA/NA Meetings.

- C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholic Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater. Attendance of Respondent at such meetings shall be verified and reported monthly to Treater.

Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. Respondent shall abstain from all personal use of controlled substances as defined in § 961.01(4), Stats., except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, Treater and the Board or its designee.
- C.10. Respondent shall refrain from the consumption of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation.
- C.11. Respondent shall report all medications and drugs, over-the-counter or prescription, taken by Respondent to Treater within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. If Respondent has not provided a release as required by C.9 above, within 24 hours of a request by Treater or the Board or its designee, Respondent shall provide releases in compliance with state and federal laws. The releases shall authorize the person who prescribed, dispensed, administered or ordered the medication to discuss Respondent's treatment with, and provide copies of treatment records to, the requester.

Drug and Alcohol Screens

- C.12. Within thirty (30) days 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 § RL 7.11, ("Approved Program"). A list of Approved Programs is available from the Department Monitor.

- C.13. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a violation of this Order. The requirements shall include:
- (a.) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 - (b.) Production of a urine specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.14. The Approved Program shall require the testing of urine specimens at a frequency of not less than **54** times per year, for the first year of this Order. After the first year, the frequency may be reduced only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.15. 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 Treater or the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- C.16. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to: (a) submit additional urine specimens, (b) submit blood, hair or breath specimens, (c) furnish any specimen in a directly witnessed manner.
- C.17. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody.
- C.18. The Approved Program shall submit information and reports to the Department Monitor in compliance with the requirements of Wis. Adm. Code § RL 7.11. The Approved Program shall immediately report to Treater all specimens suspected to have been tampered with or which are positive or suspected positive for controlled substances or alcohol.

Practice Limitations

- C.19. Respondent shall not work as a nurse or other health care provider in a setting in which Respondent has access to controlled substances.
- C.20. Respondent shall practice only under the general supervision of a licensed nurse or other licensed health care professional approved by the Board or its designee and only in a work setting pre-approved by the Board or its designee.
- C.21. Respondent shall provide a copy of this Final Decision and Order immediately to supervisory personnel at all settings where Respondent works as a nurse or care giver or provides health care, currently or in the future.
- C.22. It is Respondent responsibility to arrange for written reports from supervisors to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance.
- C.23. 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.

MISCELLANEOUS

Department Monitor

- D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.

Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order by Respondent and any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order.

Change of Treater or Approved Program by Board

- D.3. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification

- D.4. Respondent may petition the Board for modification of the terms of this Order. Any such petition shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of §227.01(3)(a), Stats., and Respondent shall not have a right to any further hearings or proceedings on the denial.

Costs of Compliance

- D.5. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Costs of Proceeding

- D.6. Respondent shall pay costs of \$250.00 to the Department of Regulation and Licensing, within 90 days of this Order.

Additional Discipline

- D.7. In addition to being a basis for removal of the stay of this suspension, violation of any term of this Order may be the basis for a separate disciplinary action under § 441.07, Stats.

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

Dated at Madison, Wisconsin this 22nd day of April, 2004.

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