

# 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               | : | FINAL DECISION AND ORDER |
|                                   | : |                          |
| REBECCA S. HICE, R.N.,            | : | LS 0306251 NUR           |
| RESPONDENT.                       | : |                          |

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[Division of Enforcement Case # 03 NUR 059 & 03 NUR 066]

The parties to this action for the purposes of Wis. Stat. § 227.53:

Rebecca S. Hice, R.N.  
735 College Avenue  
Winthrop Harbor, IL 60096

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Wisconsin Board of Nursing  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

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. Rebecca S. Hice, R.N., Respondent, date of birth September 11, 1960, is licensed by the Wisconsin Board of Nursing as a registered nurse in the State of Wisconsin pursuant to license number 138018, which was first granted May 8, 2001.

2. Respondent's last address reported to the Department of Regulation and Licensing is 735 College Avenue, Winthrop Harbor, IL 60096.

1999 Diversion

3. On September 23, 1992, Respondent was granted license number 41269575 by the Illinois Department of Professional Regulation (Illinois Department) to practice as a registered nurse in the state of Illinois.

4. On December 1, 1999, Respondent, who was employed at Highland Park Hospital in Highland Park, Illinois admitted to diversion of controlled substances and impairment. As a result of Respondent's admitted diversion and impairment on January 28, 2000, Highland Park Hospital required Respondent to sign a work agreement.

2000 Diversion

5. On November 11, 2000, while still employed as a registered nurse at Highland Park Hospital, Respondent diverted meperidine, a schedule II controlled substance, for her own use without the order of a practitioner. When confronted Respondent admitted to the diversion for her own use. Respondent had an evaluation for alcohol and drug use or abuse, but refused treatment and was terminated from her employment.

## 2001 Diversion

6. During the month of January 2001, Respondent was employed by Condell Acute Care Center in Illinois where, it was later discovered, she was diverting and using meperidine.

7. On February 22, 2001, while Respondent was employed by Condell Acute Care Center, Respondent signed out 100 mg of meperidine, for a patient who had no physician's order for that drug. Upon investigation, it was discovered that this had occurred on eight separate occasions.

## False Statement on Wisconsin Application

8. On January 16, 2001, Respondent applied to the Wisconsin Board of Nursing for a license as a registered nurse by endorsement. A question on the Wisconsin application asked "Are you currently engaged in the illegal use of controlled substances?" Although she was diverting and using meperidine at that time, Respondent answered "no" to the question. Based in part on her answers to the application questions, on May 8, 2001, Respondent was licensed as a registered nurse in Wisconsin.

## First Illinois Discipline

9. Illinois law prohibits possession of meperidine without the order of a practitioner. Respondent's diversion of meperidine was reported to the Illinois Department of Professional Regulation and was grounds for suspension or revocation of Respondent's Illinois license pursuant to 225 ILCS 65/10-45(b)8.

10. Respondent and the Illinois Department agreed to enter into a Consent Order and on April 24, 2002, the Director of the Illinois Department issued a Consent Order taking disciplinary action against Respondent's license to practice as a Registered Nurse in the state of Illinois. As discipline, the Illinois Department ordered that Respondent's license to practice as a Registered Nurse in the State of Illinois be placed on Indefinite Probation for minimum period of three (3) years. During the period of Probation, Respondent was required to adhere to the following:

- a. Respondent shall not ingest alcohol;
- b. Respondent shall not ingest mood or mind altering substances except those therapeutically prescribed by treating prescriber whose patient records reflect that the treating prescriber knew of Respondent's disease and ongoing recovery;
- c. Respondent shall provide monthly random urine screens during the three (3) year Probation period. Failure to appear for, refusal to provide, adulteration of or tampering with a sample for any urine drug screen shall cause that screen to be presumed positive. Any positive screen shall act as a violation of this order;
- d. Respondent shall actively participate in an ongoing program of treatment and aftercare accepted by the Illinois Department, which monitors the Respondent's recovery and includes random monthly urine drug screens. Respondent is also subject to random urine drug screens at the direction of the Illinois Department. Respondent shall cause the program to submit written quarterly reports detailing the Respondent's program status and immediate notification of instances of non-compliance. Respondent shall provide the Illinois Department with copies of any treatment plans, aftercare/monitoring agreements, program discharges or dismissals or any revisions thereto. Failure to satisfactorily participate in an accepted program shall act as a violation of this order;
- e. Respondent shall not accept employment in agency, hospice, medical-surgical or home nursing care situations;
- f. Respondent shall provide the Illinois Department with quarterly reports which include:
  - i. current residential address and telephone number where she can be reached;
  - ii. if working as a nurse, Respondent shall provide a copy of any performance evaluation completed by her employer within the prior quarter. Respondent, shall at the beginning of Probation, provide the Illinois Department with objective documentation as to the frequency of employee performance evaluations;
  - iii. a description of job duties, responsibilities and name of immediate supervisor, if employed in a nursing related environment;
  - iv. a copy of all incident reports within the prior quarter.
- g. Respondent shall notify the Illinois Department's Nurse Investigative Supervisor in writing of

any change in employment and home address and telephone within five (5) days;

h. Respondent agrees that any violation of paragraphs A 1, 2 or 3, of this Consent Order permits the Director of the Illinois Department of Professional Regulation to issue an Order forthwith mandating the automatic, indefinite and immediate suspension of Respondent's Registered Professional Nurse's License No. 41-269575 for a minimum period of six (6) months.

### Second Illinois Discipline

11. Following her probation intake interview with the Illinois Department on May 28, 2002, Respondent failed to provide any monthly urine screens, which was a violation of the April 24 Consent Order.

12. On October 22, 2002, as a result of Respondent's violation of the Consent Order, the Director of the Illinois Department issued an Order indefinitely suspending Respondent's license to practice as a Registered Nurse in Illinois for a minimum period of six months. Respondent's Illinois license has remained suspended to this time.

### 2003 Diversion

13. On March 28, 2003, Respondent was terminated from her employment as a registered nurse at the Washington Manor Nursing Home in Kenosha, Wisconsin. On that date:

a. Another RN reported to the Director of Nursing she had just observed Respondent in the medication room with two medication cards and medication control sheets and she saw Respondent remove the pills from the cards, put the pills in her pocket and tear up and throw away the medication control sheets.

b. After Respondent left the medication room, the other RN and the DON looked in the trash bin and found empty pill cards and torn up drug control sheets for two patients. According to the control sheets, one card should have contained 12 doses of hydrocodone/APAP 5 mg/500 mg and the other card should have contained 8 doses of hydrocodone/APAP 7.5mg/750 mg each of which are class III controlled substances.

14. Respondent contends she did not divert any medications while employed at Washington Manor. However, Respondent does not have any explanation why the RN or the DON would be untruthful about what occurred.

### Rehabilitation

15. Respondent had the following alcohol and drug related evaluations and treatment at Evanston Hospital - Doree Chapman Center, Evanston Illinois:

- a. December 3, 1999 through January 3, 2000, Day Hospital Program. Discharged upon completion.
- b. January 3, 2000 through March 7, 2000, outpatient follow up care. Respondent discontinued treatment.
- c. November 2000, evaluated and inpatient hospitalization recommended. Respondent said she could not afford inpatient care and did not pursue it.

16. Respondent had the following alcohol and drug related evaluations and treatment at All-Saints Healthcare System – Behavioral Health Services in Racine and Kenosha, Wisconsin:

- a. April 5, 2001 through October 2, 2001, Respondent received individual outpatient counseling. The diagnosis was Opioid Dependence. Her discharge status was "complete."
- b. May 16, 2002 to July 23, 2002, Respondent had 7 outpatient visits.
- c. February 9, 2004 through April 23, 2004, Respondent had 8 outpatient sessions. Respondent was diagnosed with major depression, opioid dependence in remission and alcohol abuse. At the first session she reported abstinence of all mood altering substances except two drinks of alcohol daily. After a few sessions she reported total abstinence. She was discharged when she stopped making appointments.

17. Respondent is employed at Hospitality Nursing & Rehabilitation Center in Kenosha, Wisconsin. The Director of Nursing (DON) was interviewed by the Division of Enforcement on February 10, 2005 and stated:

- a. Respondent has worked there as a registered nurse since February 2004.
- b. From the time Respondent applied for the position, the DON and the facility owners have been aware of Respondent's history of drug use and diversion.

- c. Respondent is the manager of a wing which is a short term rehabilitation unit and has administrative and nursing duties.
- d. Respondent has been “a perfect employee” and is well liked by staff, patients and patient families.
- e. There has been no sign of any drug or alcohol impairment or diversion and the DON has remained alert to that possibility.
- f. Respondent has access to medications including controlled substances. All controlled substances are in a separate locked box which requires two nurses for access. No medications have been missing from the carts or locked boxes.

### CONCLUSIONS OF LAW

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

2. Respondent, by diverting controlled substances in Illinois in 1999, 2000 and 2001, obtained drugs other than in the course of legitimate practice and as otherwise prohibited by law and committed misconduct and unprofessional conduct as defined by Wis. Adm. Code § N 7.04(2) and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

3. Respondent, by making an intentionally false statement on her January 16, 2001 application for a registered nurse license, has committed fraud in the procuring of her license as a registered nurse in Wisconsin and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(a).

4. Respondent, by having had disciplinary action taken on April 24, 2002 and on October 22, 2002 against her Illinois license to practice as a registered nurse by the Illinois Department of Professional Regulation, has committed misconduct and unprofessional conduct as defined by Wis. Adm. Code § N 7.04(7) and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

5. Respondent, by diverting hydrocodone on March 28, 2003, obtained a drug other than in the course of legitimate practice and as otherwise prohibited by law and committed misconduct and unprofessional conduct as defined by Wis. Adm. Code § N 7.04(2) and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

### ORDER

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

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

#### SUSPENSION

- A.1. The license of Rebecca S. Hice, R.N., to practice as a registered nurse in the State of Wisconsin is SUSPENDED for an indefinite period.
- A.2. Respondent shall mail or physically deliver all indicia of nursing licensure to the Department Monitor within 14 days of the effective date of this Order.
- A.3. Upon a showing by Respondent of continuous, successful compliance for a period of at least five (5) years with the terms of this Order, including at least 600 hours of active nursing for every year the suspension is stayed, the Board may grant a petition by the Respondent under paragraph D.4. for return of full licensure.
- A.4. The Board may, on its own motion or at the request of the Department Monitor, grant full licensure at any time.

#### 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. Repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Board may, in conjunction

with any removal of any stay, prohibit the Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.

- 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 Wis. Stat. § 440.11; 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 appropriate for the stay to be reinstated. 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 Wis. Admin. Code § RL 2. 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.

## CONDITIONS AND LIMITATIONS

### Treatment Required

- C.1. Respondent shall enter 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 immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- 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, but not less than twice per month for the first year. 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, but no less than twice per week. Attendance of Respondent at such meetings shall be verified and reported monthly to Treater and the Department Monitor.

### 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 Wis. Stat. § 961.01(4), 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 abstain from all use 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 and the Department Monitor 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. 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"). 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 substantial 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 56 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 do any or all of the following: (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. Admin. Code § RL 7.11.

#### Practice Limitations

- C.19. Respondent may work as a nurse or other health care provider in a setting in which Respondent has access to controlled substances. If Treater subsequently recommends restrictions on such access, the Board or its designee may impose such restrictions.
- C.20. Respondent shall practice only under the direct 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. Respondent may not work in a home health care, hospice, pool nursing, or agency setting.
- C.21. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders 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's 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, and shall include the number of hours of active nursing practice worked during that quarter.
- 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  
Wisconsin Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Ave.  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax: (608) 266-2264  
Telephone: (608) 267-3817  
department.monitor@drl.state.wi.us

### 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 failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent. Additionally, every three (3) months the Respondent shall notify the Department Monitor of the Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.

### 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 of Limitations or Termination of Order

- D.4. Respondent may petition the Board for modification of the terms of this Order or termination, however no such petition for modification shall occur earlier than one year from the date of this Order and no such petition for termination shall occur other than in compliance with paragraph A.3. Any such petition for modification 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 Wis. Stat. § 227.01(3)(a), 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 \$1,200.00 to the Department of Regulation and Licensing. The costs shall be paid no later than: \$300 on July 27, 2005, \$300 on October 27, 2005, \$300 on January 27, 2006 and \$300 on April 27, 2006. In the event Respondent fails to timely submit any payment of costs, the Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

### Additional Discipline

- D.7. In addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 441.07.



By: Jacqueline Johnsrud, RN  
A Member of the Board

June 6, 2005  
Date