

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
KAREN A. CORCORAN, L.P.N.,	:	LS0508231NUR
RESPONDENT.	:	

Division of Enforcement Case No. 04NUR002

The State of Wisconsin, Board of Nursing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing.

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

Dated this 8th day of December, 2005.

Jacqueline Johnsrud RN
Member of the Board
Board of Nursing

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

KAREN A. CORCORAN, L.P.N.
RESPONDENT :

Case No. LS0508231NUR

PROPOSED DECISION AND ORDER

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

Ms. Karen A. Corcoran
1004 2nd Avenue, Lot H6
Onalaska, WI 54650

Board of Nursing
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

A hearing in the above-captioned matter was held on October 19, 2005, before Administrative Law Judge Jacquelynn B. Rothstein. The Division of Enforcement appeared by attorney Jeanette Lytle. Ms. Corcoran did not appear.

Based on the entire record in this case, the undersigned administrative law judge recommends that the Board of Nursing adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Karen A. Corcoran, L.P.N., (dob 1/20/61) was formerly licensed as a practical nurse in the State of Wisconsin (License # 27064). Her license was first granted on June 6, 1984, and expired on April 30, 2005.
2. Ms. Corcoran's most recent address on file with the Wisconsin Board of Nursing is 1004 2nd Avenue Lot H6 in Onalaska, Wisconsin.
3. In approximately December of 2003, Ms. Corcoran was offered employment at LaCrescent Healthcare Center in LaCrescent, Minnesota, contingent upon passing a pre-employment drug test.
4. On December 9, 2003, Ms. Corcoran voluntarily took the pre-employment drug test. The test confirmed the presence of cocaine in her system, and Ms. Corcoran's offer of employment was rescinded.
5. Ms. Corcoran admitted to using cocaine recreationally at the time of the pre-employment test, but claims to have gone through a drug treatment program in June 2004.

CONCLUSIONS OF LAW

1. The Nursing Board has jurisdiction in this matter pursuant to §441.07, Wis. Stats.
2. By failing to file an Answer as required by § RL 2.09, Wis. Admin. Code, and by failing to appear at the hearing, Ms. Corcoran is in default under § RL 2.14, Wis. Admin. Code, and the Nursing Board may make Findings and enter an Order on the basis of the Complaint and evidence presented at the hearing.
3. Ms. Corcoran, by having used cocaine, engaged in unprofessional conduct contrary to § Nur 7.04 (2), Wis. Admin. Code.
4. Ms. Corcoran, by having obtained cocaine, other than in the course of legitimate practice and as prohibited by law, engaged in unprofessional conduct contrary § Nur 7.04 (2), Wis. Admin. Code.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that the right to renew the nursing license of Karen A. Corcoran in the State of Wisconsin shall be **REVOKED**.

IT IS FURTHER ORDERED that the assessable costs of this proceeding be imposed upon Karen A. Corcoran, pursuant to sec. 440.22, Wis. Stats.

OPINION

Section RL 2.14 of the Wisconsin Administrative Code provides that if a respondent fails to answer a complaint or fails to appear at a hearing, he or she is in default. If found to be in default, the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence against the respondent.

A Notice of Hearing and Complaint were sent to Ms. Corcoran both by certified mail and by regular U.S. mail at her last known address on file with the Wisconsin Department of Regulation and Licensing. However, Ms. Corcoran did not file an answer to the above-captioned complaint, nor did she appear at the scheduled hearing. As a result, Ms. Corcoran is in default and has effectively admitted all of the allegations contained in the complaint. A summary of those allegations follows below.

In approximately December of 2003, Karen A. Corcoran was offered employment at LaCrescent Healthcare Center in LaCrescent, Minnesota, provided that she take and successfully pass a pre-employment drug test. Ms. Corcoran voluntarily underwent drug testing on December 9, 2003. The results of the test indicated the presence of cocaine in Ms. Corcoran's system. Thereafter, Ms. Corcoran's employment offer was rescinded. Ms. Corcoran later admitted to an investigator at the Department of Regulation and Licensing that at the time of the testing she had used cocaine recreationally. However, she explained to the investigator that she had also entered a drug treatment program in June of 2004. Nevertheless, Ms. Corcoran has not provided any evidence of her treatment, nor did she appear at her disciplinary hearing with any further explanation of her rehabilitation.

Because Ms. Corcoran has effectively admitted all of the allegations contained in the complaint, the question remains as to what the appropriate form of discipline is for her. Revocation of the right to renew her nursing license has been recommended. It is well established that the objectives of professional discipline include the following: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*, 41 Wis. 2d 481, 485 (1969).

At this time, there is nothing in the record to suggest that imposing any discipline short of revocation would have a rehabilitative effect on Ms. Corcoran or that she even has an interest in being rehabilitated at this time. As to the deterrence of others, absent some mitigating evidence, imposing anything less than revocation would not aid in deterrence, but may instead wrongly encourage others to engage in similar conduct. Accordingly, revocation remains the only appropriate way in which to safeguard the public.

In addition, the imposition of costs against Ms. Corcoran is recommended. Section 440.22(2), Stats., provides in relevant part as follows:

In any disciplinary proceeding against a holder of a credential in which the department or an examining board, affiliated credentialing board or board in the department orders suspension, limitation or revocation of the credential or reprimands the holder, the department, examining board, affiliated credentialing board or board may, in addition to imposing discipline, assess all or part of the costs of the proceeding against the holder. Costs assessed under this subsection are payable to the department.

The presence of the word "may" in the statute is a clear indication that the decision whether to assess the costs of this disciplinary proceeding against a respondent is a discretionary decision on the part of the Board of Nursing, and that the Board's discretion extends to the decision whether to assess the full costs or only a portion of the costs. The recommendation that the full costs of the proceeding be assessed is based primarily on fairness to other members of the profession.

The Department of Regulation and Licensing is a "program revenue" agency, which means that the costs of its operations are funded by the revenue received from its licensees. Moreover, licensing fees are calculated based upon costs attributable to the regulation of each of the licensed professions and are proportionate to those costs. This budget structure means that the costs of prosecuting cases for a particular licensed profession will be borne by the licensed members of that profession. It is fundamentally unfair to impose the costs of prosecuting a few members of the profession on the vast majority of the licensees who have not engaged in misconduct. Rather, to the extent that misconduct by a licensee is found to have occurred following a full evidentiary hearing, that licensee should bear the costs of the proceeding.

Dated this 24th day of October, 2005, at Madison, Wisconsin.

STATE OF WISCONSIN
DEPARTMENT OF REGULATION & LICENSING
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Jacquelynn B. Rothstein
Administrative Law Judge