

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

RANDY J. CORNELL, R.N.,
RESPONDENT.

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:
:
:

FINAL DECISION AND ORDER

ORDER0000298

[Division of Enforcement Case # 08 NUR 133]

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

Randy J. Cornell, R.N.
6726 Jacob Way
Madison, WI 53711

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

Board of Nursing
Department of Regulation & 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 the attached Stipulation and considers it acceptable.

Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Randy J. Cornell, R.N., Respondent, date of birth June 9, 1960, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 84091, which was first granted March 25, 1983.

2. Respondent's last address reported to the Department of Regulation and Licensing is 6726 Jacobs Way, Madison, WI 53711.

3. On April 20, 1987, the Board issued a Final Decision and Order which accepted the voluntary surrender of Respondent's license as a registered nurse. That Order, which

resulted from Respondent having diverted controlled substances for his own use on several occasions in 1984 and again in January 1985, while working as a registered nurse. On August 15, 1990, Respondent petitioned the Board to reinstate his license. On September 21, 1990, the Board granted Respondent a limited license for a period of one year from the date of his employment as a registered nurse. Respondent complied with the terms of the September 21, 1990 Order and was granted an unlimited license on November 5, 1991.

4. On November 5, 1993, the Board issued a Final Decision and Order which suspended Respondent's license as a registered nurse for an indefinite period of time. Respondent was eligible for consecutive three month stays of the suspension as long as he complied with various conditions and limitations. That Order resulted from Respondent having diverted controlled substances for his own use on several occasions from September 1992 through April 1993, while working as a registered nurse. Respondent complied with all requirements of the November 5, 1993 Order and was granted an unlimited license on November 14, 1995.

5. From April 1, 2002 until his employment was terminated on June 10, 2008, Respondent was employed as a registered nurse and worked as a Care Team Leader at the University of Wisconsin Hospital and Clinics (UWHC) in Madison, Wisconsin.

6. At approximately 1:00 a.m. on March 29, 2008, staff noted that Respondent had been missing for about 45 minutes. Staff went looking for him and found the staff bathroom to be locked. Moaning could be heard from within. There was no response to the staff's yelling and pounding on the door. Hospital security was called to unlock the door.

7. Respondent was found in the bathroom leaning back across the toilet. His breathing appeared to be shallow and he was moaning and making a gurgling sound. In his hand, he had a 20 cc syringe with a butterfly needle attached. Respondent was diaphoretic, pale and confused/disoriented. Respondent was transported to the Emergency Department.

8. UWHC placed Respondent on an administrative leave of absence and directed him to take a Fitness for Duty drug test on March 31, 2008. Results of the drug test were positive for Fentanyl, a narcotic analgesic and schedule II controlled substance pursuant to Wis. Stat. § 961.16(3)(f).

9. On April 2, 2008, a pre-disciplinary investigation (PDI) was conducted. At the PDI, Respondent admitted that he removed narcotics ordered for a patient and diverted them for his personal use. In addition, Respondent admitted that he left his duties as Care Team Leader for over an hour and injected the narcotics while at work.

10. On June 10, 2008, Respondent's employment as a registered nurse was terminated.

11. On April 16, 2008, Respondent had an AODA assessment performed at UW Health-Gateway Recovery in Madison. Respondent was diagnosed with Cocaine Dependence 304.20, with Physiological Dependence; Opioid Dependence 304.00, with Physiological

Dependency in Sustained Partial Remission; and Major Depressive Disorder, Recurrent, Moderate 296.32. Initial treatment recommendations included individual and group sessions.

12. On May 19, 2008, Respondent began the 4-week Intensive Outpatient Program (IOP) at Gateway and was successfully discharged on June 23, 2008. Since August 2008, Respondent has participated in aftercare including monthly half-hour sessions with an AODA Counselor.

13. On March 12, 2009, Respondent's AODA Counselor sent a letter to the Department stating:

"[Respondent] attends four AA meetings a week and is actively involved in service there, including getting the outreach committee active again; he was also instrumental in starting a "Clean in Healthcare" NA meeting last August. He is working on his 4th Step with his sponsor, who he sees once a week. His depression is well managed, and he is handling life problems very effectively. He seems at low risk for relapse, his prognosis is deemed excellent, and I believe that he can successfully return to nursing duties immediately."

14. On May 17, 2010, Respondent's AODA Counselor sent another letter to the Department stating:

"[Respondent] has continued to meet with me individually for continued support and monitoring, and is heavily involved in the AA community, both attending and serving. He has established a strong support network with his sponsor and Program people, and uses them appropriately and effectively." . . . "[Respondent] just celebrated two years of continuous abstinence." . . . "I have no concerns about Randy's sobriety due to his strong connection with the recovering community."

CONCLUSIONS OF LAW

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

2. Respondent, by obtaining and using a drug other than in the course of legitimate practice and as otherwise prohibited by law, as set out above, has committed misconduct and unprofessional conduct as defined by Wis. Admin. Code § N 7.04(2) and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

3. Respondent, by engaging in the conduct set out above, has abused drugs to an extent that it has impaired his ability to safely and reliably practice, as defined by Wis. Admin. Code § N 7.03(2), and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(c).

ORDER

IT IS ORDERED, that the attached Stipulation is accepted.

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

SUSPENSION

- A.1. The license of Randy J. Cornell, R.N., Respondent, to practice as a registered nurse in the State of Wisconsin is SUSPENDED for an indefinite period, retroactive to July 22, 2009.
- A.2. The privilege of Respondent to practice as a nurse in the State of Wisconsin under the authority of another state's license pursuant to the Nurse Licensure Compact is also SUSPENDED for an indefinite period.
- A.3. During the pendency of this Order and any subsequent related orders, Respondent may not practice in another state pursuant to the Nurse Licensure Compact under the authority of a Wisconsin license, unless Respondent receives prior written authorization to do so from both the Wisconsin Board of Nursing and the regulatory board in the other state.
- A.4. Respondent shall mail or physically deliver all indicia of Wisconsin nursing licensure to the Department Monitor within 14 days of the effective date of this Order. Limited credentials can be printed from the Department of Regulation and Licensing website at <http://drl.wi.gov/index.htm>.
- A.5. 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.6. for return of full Wisconsin licensure. The Board may, on its own motion or at the request of the Department Monitor, grant full Wisconsin licensure at any time.

STAY OF SUSPENSION

- B.1. The suspension is hereby stayed based upon Respondent having provided proof, which was 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 ch. 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, drug and alcohol treatment with a treater acceptable to the Board or its designee ("Treater"). 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 and treatment 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 required by this Order, 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 with the approval of the Board or its designee, after receiving a petition for modification as required by D.5., 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 drug and alcohol treatment. 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 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 Alcoholics 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 quarterly 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. Copies of these releases shall immediately be filed with the Department Monitor.
- 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 to Treater and the Department Monitor all medications and drugs, over-the-counter or prescription, taken by Respondent. Reports must be received within 24 hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.

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 ("Approved Program").
- 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, blood, sweat, fingernail, hair, saliva or other 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 specimens at a frequency of not less than 49 times per year, for the first year of this Order. After the first year, Respondent may petition the Board on an annual basis for a modification of the frequency of tests. The board may adjust the frequency of testing on its own initiative at any time.
- C.15. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as 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 specimens; (b) furnish any specimen in a directly witnessed manner; or (c) submit specimens on a more frequent basis.
- 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, fault in the chain of custody or other valid defense.
- C.18. The Approved Program shall submit information and reports to the Department Monitor as directed.

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. Notwithstanding this restriction, Respondent may continue to work at his current position at Tellurian treatment center, provided that his access to controlled substances is limited to benzodiazepines.
- 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.
- C.21. Respondent shall practice only in a work setting pre-approved by the Board or its designee.
- C.22. Respondent may not work in a home health care, hospice, pool nursing, or agency setting.
- C.23. 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.24. 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.25. 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 Avenue
P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 267-3817

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.
- D.3. 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.4. 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.5. Respondent may petition the Board on an annual basis for modification of the terms of this Order, however no such petition for modification shall occur earlier than one year from the date of this Order. Any 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.
- D.6. Respondent may petition the Board for termination of this Order anytime after five years from the date of this Order. However, no petition for termination shall be considered without a showing of continuous, successful compliance with the terms of the Order, for at least five years.

Costs of Compliance

- D.7. 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.8. Respondent shall pay costs of \$900.00 to the Department of Regulation and Licensing, within 180 days of this Order. In the event Respondent fails to timely submit any payment of costs, Respondent's license may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

Additional Discipline

- D.9. 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.

Wisconsin Board of Nursing

By: Karen Smith
A Member of the Board

7/22/10
Date

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