

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
JOHNNIE V. WHEELER, L.P.N., :
RESPONDENT. : ORDER 0000469

[Division of Enforcement Case # 09 NUR 411]

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

Johnnie V. Wheeler, L.P.N.
4530 South Woodlawn #1006
Chicago, IL 60653

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. Johnnie V. Wheeler, L.P.N., Respondent, date of birth September 23, 1972, is licensed by the Wisconsin Board of Nursing as a licensed practical nurse in the state of Wisconsin pursuant to license number 311671, which was first granted August 5, 2009.
2. Respondent's last address reported to the Department of Regulation and Licensing is 4530 South Woodlawn #1006, Chicago, IL 60653.

3. On August 25, 2000, Respondent was issued a Certificate of Registration as a Practical Nurse, License No. 043085201, by the Department of Financial and Professional Regulation of the State of Illinois (Illinois Department).

4. On July 1, 2005, Respondent was arrested for driving with a revoked license. Subsequent to the search of his vehicle, authorities confiscated several bottles of prescription drugs bearing the names of patients of a nursing home where Respondent was employed. On March 28, 2006, Respondent pled guilty to Receiving Stolen Property, a Class D felony, in the Circuit Court of Starke County, Indiana.

5. On June 12, 2008, as a result of Respondent's conduct set out in paragraph 4, above, the Illinois Department filed a Complaint against Respondent seeking disciplinary action against his license. On October 6, 2008, Respondent filed an Answer to the Complaint.

6. Respondent and the Illinois Department entered into a Consent Order and on September 23, 2009, the Illinois Department took disciplinary action which suspended Respondent's license for ninety (90) days. Upon completion of the suspension, Respondent's license was placed on probation, with conditions, for an indefinite period of not less than three (3) years. Conditions included:

- a. Abstinence of alcohol and controlled substances.
- b. Monthly random alcohol and drug screens.
- c. Rehabilitation, monitoring, treatment and practice.

7. On July 17, 2009, Respondent completed an application for Licensed Practical Nurse Licensure by Endorsement, which he signed and submitted to the Wisconsin Department of Regulation and Licensing. Immediately above Respondent's signature on the application, the form states:

I declare that I am the person referred to on this application and that all answers set forth are each and all strictly true in every respect. I understand that failure to provide requested information, making any materially false statement and/or giving any materially false information in connection with my application for a credential or for renewal or reinstatement of a credential may result in credential application processing delays; denial, revocation, suspension or limitation of my credential; or any combination thereof; or such other penalties as may be provided by law. I further understand that if I am issued a credential, or renewal or reinstatement thereof, failure to comply with the statutes and/or administrative code provisions of the licensing authority will be cause for disciplinary action. (emphasis added)

8. On page 3 of the application form, Respondent checked the "No" boxes for the following questions:

- a. "Is disciplinary action pending against you in any jurisdiction?"
- b. "Have you ever been convicted of a misdemeanor or felony?"

9. At the time Respondent completed the application, Respondent knew, or should have known, that he had disciplinary action pending against him in Illinois and that he had been convicted of a felony.

10. On or about June 1, 2010, the Indiana State Board of Nursing entered a default judgment and indefinitely suspended Respondent's license, based on the facts described in paragraph 4 above. The Board noted that on October 31, 2006, Respondent had answered "no" to a question on his renewal application that asked about convictions and pending criminal charges, and thereby engaged in a material deception in order to obtain a license to practice. The Board also noted positive drug tests for un-prescribed controlled substances, including alprazolam, propoxyphene, lorazepam, and tramadol.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction to act in this matter, pursuant to Wis. Stat. § 441.07, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by having had disciplinary action taken against his license in another jurisdiction, as set out in paragraph 6 above, has committed misconduct or unprofessional conduct as defined by Wis. Admin Code § N 7.04(7) and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

3. Respondent, by having violated a law substantially related to the practice of practical nursing, as set out in paragraph 4 above, has committed misconduct or unprofessional conduct as defined by Wis. Admin Code § N 7.04(1) and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

4. Respondent, by obtaining a drug other than in the course of legitimate practice or as otherwise prohibited by law, as set out in paragraph 4 above, has committed misconduct or 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).

ORDER

IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED:

1. The Board of Nursing accepts the surrender by Johnnie V. Wheeler, L.P.N., Respondent, of his license to practice as a practical nurse in the state of Wisconsin and the surrender of his privilege to practice as a nurse in Wisconsin pursuant to the Multi-State Nurse Licensure Compact.

2. In the event that Respondent re-applies for licensure as a nurse in the future, the Board may enter an order denying such application without further notice or hearing.

3. Respondent shall, within 180 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$350.00, pursuant to Wis. Stat. § 440.22(2).

4. Payment shall be mailed or delivered to:

Department Monitor
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

5. This Order is effective on the date of its signing.

Wisconsin Board of Nursing

By: *Karen Sue*
A Member of the Board

10-14-10
Date