

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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# FILE COPY

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :

DENISE L. SCHERER, R.N., :  
RESPONDENT :

FINAL DECISION AND ORDER  
91 NUR 95

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Denise L. Scherer, R.N.  
4320 North Ardmore Avenue  
Shorewood, WI 53211

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. 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. Denise L. Scherer, R.N. (D.O.B. 10/06/47) is duly licensed as a registered nurse in the state of Wisconsin (license # 97951). This license was first granted on September 4, 1987.
2. Ms. Scherer's most recent address on file with the Wisconsin Board of Nursing is 4320 North Ardmore Avenue, Shorewood, WI 53211.
3. On the night shift on or about May 14-15, 1991, while Ms. Scherer was working as a registered nurse at ElmBrook Memorial Hospital, she signed out four (4) doses of meperidine hydrochloride (Demerol™) for administration to a patient.
4. Ms. Scherer failed to chart administration or other disposition of the medication referred to in ¶3, above.
5. On the night shift on or about May 19-20, 1991, while Ms. Scherer was working as a registered nurse at ElmBrook Memorial Hospital, she signed out five (5) doses of meperidine hydrochloride (Demerol™) for administration to two patients.
6. Ms. Scherer failed to chart administration or other disposition of the medication referred to in ¶5, above.

7. On or about September 22, 1991, respondent entered the controlled substances cabinet at St. Camilla's Health Center, without authorization or necessity to do so.

8. A division of enforcement investigator would testify that on or about July 15, 1991, respondent told him that she was allergic to Demerol™ and that she did not qualify her statement as to any particular form of Demerol™. In fact respondent was at that time regularly taking this drug on prescription from her dentist. Respondent would testify that she told the investigator only that she was allergic to Demerol™ IV, that the prescriptions she received from her dentist were for Demerol™ IM, and that she did not intend to mislead the Board. The Board finds that the statement was made as the investigator reported, and was misleading.

### CONCLUSIONS OF LAW

By the conduct described above, Denise L. Scherer is subject to disciplinary action against her license to practice as a registered nurse in the state of Wisconsin, pursuant to §441.07(1), Wis. Stats. and §N7.03, Wis. Adm. Code.

### ORDER

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

IT IS FURTHER ORDERED, that the license of Denise L. Scherer is SUSPENDED for a period of not less than TWO (2) years.

(A) Upon demonstration by Ms. Scherer that she has participated in a chemical dependency assessment which indicates that Ms. Scherer can safely return to the practice of nursing, the SUSPENSION shall be STAYED for a period of three (3) months, conditioned upon compliance with the conditions and limitations outlined in paragraph (B), below.

1. Denise L. Scherer may apply for consecutive three (3) month extensions of the stay of suspension, which shall be granted upon acceptable demonstration of compliance with the conditions and limitations imposed upon Ms. Scherer's practice during the prior three (3) month period.

2. If the Board denies a petition by Ms. Scherer for an extension, the Board shall afford an opportunity for hearing in accordance with the procedures set forth in Wis. Adm. Code Ch. RL 1 upon timely receipt of a request for hearing.

3. Upon a showing by Ms. Scherer of successful compliance for a period of two (2) years with the terms of paragraph (b), below, the Board shall grant a petition by Ms. Scherer for return of full licensure.

### (B) CONDITIONS OF STAY

1. Ms. Scherer, at her own expense, must complete an assessment for chemical dependency at a health care facility acceptable to the Board. Ms. Scherer shall arrange for the facility to submit a written report of its findings to the Board, including: a diagnosis of Ms. Scherer's condition; recommendations (if any) for treatment; an evaluation of whether Ms. Scherer is competent to safely and competently practice nursing, including what (if any) work restrictions should be imposed on Ms. Scherer in her nursing practice; an evaluation of Ms. Scherer's cooperation in the assessment process; and Ms. Scherer's prognosis. Ms. Scherer will provide the assessor with a copy of this order prior to the assessment process. In addition, the assessor shall be provided with copies of the Division of Enforcement's investigative file materials in conjunction with the assessment.

2. If the assessment reveals a need for treatment,

a. Ms. Scherer must enter and remain in a program for the treatment of alcohol and chemical dependency acceptable to the Board. As a part of treatment, Ms. Scherer must attend therapy on a schedule as recommended by her therapist; however, the Board may require a minimum attendance in addition to the recommendation of the therapist.

b. Ms. Scherer must participate in a program of random witnessed monitoring for controlled substances and alcohol in her blood and/or urine on a frequency of not less than four (4) times per month. If the physician or therapist supervising her plan of care or her employer deems that additional blood or urine screens are warranted, Ms. Scherer shall submit to such additional screens.

c. The Board may, in addition and at its discretion: 1) require AA or NA participation; and 2) establish work restrictions for Ms. Scherer based on its evaluation of the assessment report.

3. If the assessment reveals that treatment is not required, Ms. Scherer shall not be required to participate in treatment. **The following conditions shall apply whether or not treatment is recommended:**

4. Ms. Scherer shall remain free of alcohol, prescription drugs and controlled substances not prescribed for valid medical purposes during the period of limitation.

5. Upon request of the Board, Ms. Scherer shall provide the Board with current releases complying with state and federal laws, authorizing release of counseling, treatment and monitoring records, and employment records.

6. If her employer deems that blood or urine screens are warranted to ascertain Ms. Scherer's compliance with the terms of this order, Ms. Scherer shall submit to such screens. To be acceptable under the terms of this order, any provision of specimens for monitoring under the terms of this paragraph must be witnessed.

7. Ms. Scherer shall be responsible for obtaining a monitoring facility and reporting system acceptable to the Board, as well as for all costs incurred in conjunction with the monitoring and reporting required.

To be an acceptable program, the monitoring facility shall agree to provide witnessed gatherings of specimens for evaluation. The facility must agree to maintain a custody record of all specimens, and to confirm positive test results with gas chromatography or mass spectrometry. It shall further agree to file an immediate report directly with the Board of Nursing upon such failures to participate as: if Ms. Scherer fails to appear upon request; or if a drug or alcohol screen proves positive; or if Ms. Scherer refuses to give a specimen for analysis upon a request authorized under the terms of this Order.

8. Ms. Scherer shall refrain from access to or the administration of controlled substances in her work setting until such time as access or administration is approved by the Board.

9. Ms. Scherer shall arrange for quarterly reports to the Board of Nursing from her employer evaluating her work performance; from the monitoring facility (if applicable) providing the dates and results of the screenings performed; and from her counselor (if applicable) evaluating Ms. Scherer's attendance and progress in therapy as well as evaluating her level of participation at NA/AA meetings.

10. Ms. Scherer shall report to the Board any change in employment status, change of residence address or phone number, within five (5) days of any such change.

(C) Ms. Scherer may petition the Board in conjunction with any application for an additional stay to revise or eliminate any of the above conditions.

(D) Violation of any of the terms of this Order may result in a summary suspension of Ms. Scherer's license; the denial of an extension of the stay of suspension; the imposition of additional conditions and limitations; or the imposition of other additional discipline.

(E) This Order shall become effective upon the date of its signing.

Dated this 5/7, 1993.

BOARD OF NURSING by:

By:

Jacqueline Johnson RN MS  
A Member of the Board

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
DENISE L. SCHERER, R.N.,	:	91 NUR 95
RESPONDENT	:	

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It is hereby stipulated between Denise L. Scherer, personally on her own behalf, and the Department of Regulation and Licensing, Division of Enforcement:

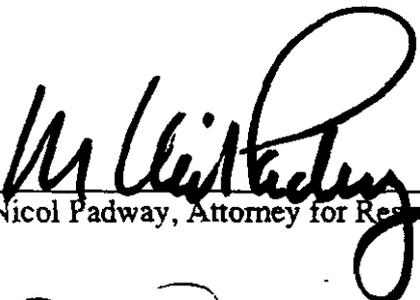
1. This Stipulation is entered into as a result of a pending investigation of licensure of Respondent by the Division of Enforcement. Respondent consents to the resolution of this investigation by Stipulation and without a hearing on the formal complaint which has been issued in this matter.
2. Respondent is aware of and understands her rights with respect to disciplinary proceedings, including the right to a statement of the allegations against her; a right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel attendance of witnesses by subpoena; the right to testify personally; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. By entering into this Stipulation, Respondent voluntarily and knowingly waives the rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.
4. Respondent is aware of her right to seek legal representation and has obtained legal advice prior to execution of this Stipulation.
5. With respect to the attached Final Decision and Order, Respondent admits the facts set forth in the Findings of Fact, except for paragraphs 7 and 8 which she denies while agreeing only that there is evidence from which the Board could infer that those allegations are true, and further agrees that the Board may reach the conclusions set forth in the Conclusions of Law, and may enter the Order.
6. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that either the Board or the Respondent has been prejudiced or biased in any manner by the consideration of this attempted resolution.
7. If the Board accepts the terms of this Stipulation, the parties to this Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

8. Respondent agrees that an attorney for the Division of Enforcement may appear at any deliberative meeting of the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, with respect to this Stipulation but that appearance is limited to statements solely in support of this Stipulation, and to answering questions asked by the Board and its staff, and for no other purpose.

9. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

10. Respondent is informed that should the board adopt this stipulation, the board's final decision and order adopting the terms of the stipulation will be published in the Monthly Disciplinary Report issued by the department, and a summary of the order adopting the terms of the stipulation shall be published in the Wisconsin Regulatory Digest issued semiannually by the department, all of which is standard Department policy and in no way specially directed at Respondent.

  
\_\_\_\_\_  
Denise L. Scherer, R.N. 4/23/93  
Date

  
\_\_\_\_\_  
M. Nicol Padway, Attorney for Respondent 4/26/93  
Date

  
\_\_\_\_\_  
Arthur Thexton, Prosecuting Attorney  
Division of Enforcement 4/29/93  
Date

## NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,  
the times allowed for each, and the identification  
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

### 1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Board of Nursing.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

### 2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Board of Nursing

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Board of Nursing.

The date of mailing of this decision is May 12, 1993.