

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 :
 : FINAL DECISION AND ORDER
 : 96 NUR 051
 JOSEPH A. GANDOLFO, R.N., :
 RESPONDENT. :

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

Joseph A. Gandolfo
3033 W. Minnesota Avenue
Franklin, WI 53132

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. Joseph A. Gandolfo (D.O.B. 12/05/50) is duly licensed in the state of Wisconsin as a registered nurse (license # 87043). This license was first granted on March 28, 1984.
2. Respondent's latest address on file with the Department of Regulation and Licensing is 3033 West Minnesota Avenue, Franklin, WI 53132.
3. On December 25, 1995, Respondent reported to work as a registered nurse at the Child and Adolescent Treatment Center in Milwaukee. Respondent had not worked for a period of time due to illness, but his physician had signed a work release which Mr. Gandolfo had forwarded to

his employer. The employer had not processed the release for work, and Respondent had not been placed on the work schedule for December 25th.

4. Upon his arrival at the work place and discovery that his name was not on the work schedule. Respondent became upset and used improper language towards his supervisors.

5. The conduct of Respondent on December 25, 1995, resulted in the issuance of a temporary restraining order against Respondent having contact with co-employee CF, and from going to within 200 feet of the place of employment.

6. The conduct of Respondent on December 25, 1995, also resulted in a stipulation in Milwaukee County Circuit Court Case 39-732M, in which Respondent agreed to not engage in conduct dangerous to himself or others, to maintain compliance with prescribed medications, and to seek treatment for his condition.

7. On January 4, 1996, Respondent sought inpatient treatment at St. Mary's Hospital, Milwaukee, where he was diagnosed with major depressive disorder, recurrent.

8. A February 19, 1996 evaluation of the condition of Respondent, following inpatient and outpatient treatment, attributed the December, 1995, outburst to a build up of anxiety and stress over personal health and employment issues. It was the evaluator's opinion that Respondent can continue to work in the nursing profession without a likelihood of the occurrence of disruptive behavior.

9. Respondent is not currently working as a nurse.

CONCLUSIONS OF LAW

By the conduct described above, Joseph A. Gandolfo is subject to disciplinary action against his license to practice as a registered nurse in the state of Wisconsin, pursuant to Wis. Stats. sec. 441.07(1)(b), (c) and (d), and Wis. Adm. Code sec. N 7.03(3) and N 7.04(15).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent is **REPRIMANDED** for his unprofessional conduct.

2. The license of Respondent to practice as a registered nurse in the state of Wisconsin is **LIMITED** as follows:

a. Respondent shall, within four months of the date of his return to the practice of nursing, certify to the Board of Nursing the successful completion of an approved course of stress management in the workplace. Within two months of the date of his return to the practice

of nursing Respondent shall submit for approval an outline for the required training. The outline shall contain the name of the institution providing the instruction, the name of the instructor and the course content. In the event that Respondent fails to timely comply with the education requirement set forth above, his nursing license shall be suspended, without further notice or hearing, until he has complied with the terms of the Order.

b. For a period of one year following the date of his return to the practice of nursing, Respondent shall on a quarterly basis submit a report from his therapist evaluating his progress and compliance in therapy, and a report from his nursing employer evaluating his work performance. Respondent shall execute current releases complying with state and federal law releasing treatment and employment information to the Board of Nursing or its designee. Respondent shall be responsible for compliance with the provisions of this paragraph. All required reports shall be submitted to the Board Monitor, Division of Enforcement, P.O. Box 8935, Madison, WI 53708-8935 on a timely basis.

c. Respondent shall provide his nursing employer with a copy of this Final Decision and Order upon issuance.

d. Respondent shall report to the Board his return to the practice of nursing and any change in nursing employment status, change of address or telephone number, within five days of any such change.

3. Violation of any of the terms of this Order shall be construed as conduct imperiling public health, safety and welfare, and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions or limitations. Respondent shall be entitled to notice and the right to hearing as provided for in sec. 440.03(1) and 441.07(1) Wis. Stats., and ch. RL 2 or RL 6 Wis. Adm. Code.

4. This Order shall become effective upon the date of its signing.

BOARD OF NURSING

By: Carol D. Branscomb 13 March 97
On Behalf Of The Board Date

STATE OF WISCONSIN

BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
JOSEPH A. GANDOLFO, R.N.	:	96 NUR 051
RESPONDENT.	:	

It is hereby stipulated between Joseph A. Gandolfo, personally on his own behalf and John Germanotta, his attorney, and by James W. Harris, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement. Respondent consents to the resolution of this investigation by Stipulation and without the issuance of a formal complaint.
2. Respondent understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; 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 to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. Respondent is aware of his right to seek legal representation and has obtained legal advice prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board of Nursing. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, 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 the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney for the Division of Enforcement may appear before the Board of Nursing for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the Stipulation.
7. The Division of Enforcement joins Respondent in recommending the Board of Nursing adopt this Stipulation and issue the attached Final Decision and Order.

Joseph A. Gandolfo 3/3/97
Joseph A. Gandolfo, R.N. Date

John Germanotta 3/3/97
John Germanotta, Attorney for Respondent Date

James W. Harris March 10, 1997
James W. Harris, Attorney Date
Division of Enforcement

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE BOARD OF NURSING

In the Matter of the Disciplinary Proceedings Against

Joseph A. Gandolfo, R.N.,

AFFIDAVIT OF MAILING

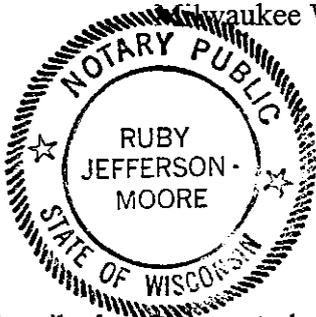
Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On March 20, 1997, I served the Final Decision and Order dated March 13, 1997 upon the Respondent Joseph A. Gandolfo's attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 201 373 810.

John Germanotta, Attorney
1700 N. Farwell Avenue
Milwaukee WI 53202





Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 20th day of March, 1997.



Notary Public, State of Wisconsin

My commission is permanent.

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.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

March 20, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)