

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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State of Wisconsin
Before the Board of Nursing

FILE COPY

In the Matter of Disciplinary Proceedings Against

Marypat Stewart, RN
Respondent

Final Decision and Order LS 98050813 NUR

The parties to this proceeding for the purposes of s. 227.53, Stats., are:

Marypat Stewart, RN
530 Second Avenue
Antigo WI 54409

Board of Nursing
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

The parties having agreed to the stipulation attached to this Final Decision and Order, the Board makes the following

Findings of Fact

1. Marypat Stewart, Respondent, was born on August 15, 1964, and is licensed to practice registered nursing pursuant to license 109634 which was granted on March 20, 1992.
2. Two investigations, 95 NUR 071 and 97 NUR 111, are pending before the Board of Nursing which allege verbal and physical abuse of patients for which the respondent had direct responsibility to provide care.
3. Respondent, in consideration of her current health condition and future career plans to seek employment outside of the field of nursing, has tendered the voluntary surrender of her license effective on the date of this Final Decision and Order.

Conclusions of Law

1. The Board of Nursing has jurisdiction in this matter pursuant to s 441 07, Stats.

Order

Now, therefore, it is ORDERED that the voluntary surrender of the respondent's license to practice registered nursing, effective on the date of this order, is accepted.

It is further ordered that the pending investigations, 95 NUR 071 and 97 NUR 111, shall be and hereby are closed without further proceedings, without costs and without fees.

It is further ordered that Respondent shall not apply for reinstatement of her certificate in the future.

Dated this 8 day of May 1998.

Ruth E. Lindgren *Enmons Vice Chair*
A Member of the Board

State of Wisconsin
Before the Board of Nursing

In the Matter of Disciplinary Proceedings Against

Marypat Stewart
Respondent
Case Nos. 95 NUR 071 and 97 NUR 111

Stipulation

It is hereby stipulated between Marypat Stewart, personally and on her own behalf, and James E. Polewski, Attorney for the Division of Enforcement, Department of Regulation and Licensing, as follows:

1. This stipulation is entered in resolution of the pending matter concerning Ms. Stewart's license. The Stipulation and the proposed Final Decision and Order shall be presented directly to the Board of Nursing for its consideration and adoption.
2. In resolution of these proceedings, Ms. Stewart consents to the entry of the attached Final Decision and Order.
3. Ms. Stewart is aware of and understands each of her rights, including:
 - the right to a hearing on the allegations against her, at which the state would have the burden of proving the allegations by a preponderance of the evidence,
 - the right to confront and cross-examine the witnesses against her,
 - the right to call witnesses on her own behalf and to compel their attendance by subpoena,
 - the right to testify herself,
 - 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,
 - the right to be represented at every stage of the proceeding, including the making of any stipulation, by an attorney of her choosing, at her own expense,
 - all other rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
4. Ms. Stewart is aware and understands that by signing this stipulation she voluntarily and knowingly waives the rights set forth in paragraph 3 above, and does voluntarily and knowingly waive those rights.

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 and the member of the Board of Nursing assigned as an advisor in this investigation may appear before the Board for the purpose of speaking in favor of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

7. Respondent is informed that should the Board adopt this stipulation, the Board's final decision and order is a public record and will be published in the monthly *Report of Decisions* issued by the Department. A summary of the order will be published in the *Wisconsin Regulatory Digest* issued semiannually by the Board.

Marypat Stewart
Marypat Stewart

April 23, 1998
Date

James E. Polewski
James E. Polewski
Attorney
Division of Enforcement

April 20 1998
Date

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

In the Matter of Disciplinary Proceedings Against

Marypat Stewart, RN,

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 May 18, 1998, I served the Final Decision and Order dated May 8, 1998, LS98050813NUR, upon the Respondent Marypat Stewart, RN by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent 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 221 158 903.

3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

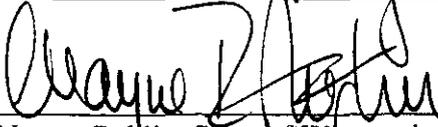
Marypat Stewart, RN
530 Second Avenue
Antigo WI 54409



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 18th day of May, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: MARYPAT STEWART RN

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 5/18/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. 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 section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

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

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order 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. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935