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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST TIMOTHY M. NORDWIG, R.N., RESPONDENT	: : : : :	FINAL DECISION AND ORDER

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

Timothy M. Nordwig
609 Labaree Street
Watertown, WI 53094

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. Timothy M. Nordwig (D.O.B. 10/26/51) is duly licensed in the state of Wisconsin to practice as a registered nurse (license # 60954). This license was first granted on September 30, 1974.

2. Mr. Nordwig's latest address on file with the Department of Regulation and Licensing is 609 Labaree Street, Watertown, WI 53094.

3. On January 19, 1989, the Wisconsin Board of Nursing took action against Mr. Nordwig's license to practice as a registered nurse. The Board issued amendments to the 1/19/89 Order on September 25, 1989 and September 7, 1990. True and correct copies of the order and its subsequent amendments are attached to this Order as Exhibits A, B and C, respectively. These Exhibits are incorporated by reference into this Order.

4. On May 9, 1991, the petition of Mr. Nordwig for an additional stay of suspension of his license under the terms of the 1/19/89 order was denied. A

true and correct copy of the 5/9/91 Denial is attached to this Order as Exhibit D. Exhibit D is incorporated by reference into this Final Decision and Order.

5. In resolution of this matter, Mr. Nordwig consents to the entrance of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter, pursuant to §441.07, Wis. Stats.

2. The Wisconsin Board of Nursing is authorized to enter into the attached stipulation, pursuant to §227.44(5), Wis. Stats.

3. By the conduct described above, Timothy M. Nordwig 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 secs. N7.03(2) and 7.04(1),(2), (14) and (15).

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Timothy M. Nordwig shall be SUSPENDED for a period of not less than TWO (2) years.

(a) IT IS FURTHER ORDERED that 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.

i. Timothy M. Nordwig 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 Mr. Nordwig's practice during the prior three (3) month period.

ii. If the Board denies the petition by Mr. Nordwig 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.

(b) CONDITIONS OF STAY

i. Mr. Nordwig must maintain successful participation in a program for the treatment of chemical dependency at a health care facility acceptable to the Board.

As a part of treatment, Mr. Nordwig must attend therapy on a schedule as recommended by his therapist; attendance, however, shall be required at least four (4) times per month. In addition, Mr. Nordwig must attend Alcoholics or Narcotics Anonymous at least one (1) time per week.

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

iii. Mr. Nordwig shall remain free of alcohol, prescription drugs and controlled substances not prescribed for valid medical purposes during the period of limitation.

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

Mr. Nordwig 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 random and 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 chromotography or mass spectometry. It shall further agree to file an immediate report directly with the Board of Nursing upon such failures to participate as: if Mr. Nordwig fails to appear upon request; or if a drug or alcohol screen proves positive; or if Mr. Nordwig refuses to give a specimen for analysis upon a request authorized under the terms of this Order.

v. Mr. Nordwig shall refrain from practice as a nurse anesthetist. On a date not earlier than one year following August 14, 1991, Mr. Nordwig may petition the Board to return to practice as a nurse anesthetist. The Board shall grant a petition by Mr. Nordwig to return to practice as a nurse anesthetist, provided that 1) from August 14, 1991 to the date of this Order, Mr. Nordwig complied with the terms of the Board's 7/16/91 Temporary Order; 2) from the date of this Order to the date of the Board's consideration of a petition under this paragraph, Mr. Nordwig has complied with the terms of this Order; and 3) a return to practice is supported by Mr. Nordwig's therapist. Mr. Nordwig and his therapist shall appear before the Board in conjunction with its consideration of a petition under this paragraph to answer questions about his rehabilitation and ability to return to practice as a nurse anesthetist.

The Board may require Mr. Nordwig to demonstrate his continued competence to practice as a nurse anesthetist, if his absence from the field exceeds a period of two years. The Board, in its discretion, may determine how demonstration of competence may accomplished.

vi. Mr. Nordwig shall refrain from access to or the administration of controlled substances in his work setting until such time as the Board

Approves his resumption of practice as a nurse anesthetist as described in ¶(b)(v) above.

vii. Mr. Nordwig shall refrain from practicing in any setting where he is without supervision by another licensed health care professional. At all times when Mr. Nordwig is practicing, another licensed health care professional must be immediately available to provide supervision and backup to Mr. Nordwig. Availability by telephone will not satisfy this requirement.

viii. Mr. Nordwig shall arrange for quarterly reports to the Board of Nursing from all work settings where Mr. Nordwig has practiced in the quarter evaluating his work performance; from the monitoring facility providing the dates and results of the screenings performed; and from his counselor evaluating Mr. Nordwig's attendance and progress in therapy as well as evaluating his level of participation at NA/AA meetings.

ix. Mr. Nordwig 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) Mr. Nordwig may petition the Board of Nursing at any time following one year after the effective date of this order to revise or eliminate any of the above conditions. Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. §§ 227.01(3) and 227.42.

(d) Violation of any of the terms or conditions of this Order may constitute grounds for revocation of the stay imposed against the suspension of Mr. Nordwig's license. In addition, violation of any of the terms of this Order may result in the commencement of summary suspension proceedings against Mr. Nordwig's license, or the commencement of additional disciplinary action.

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

BOARD OF NURSING

By: Jacqueline Johnson RN 11/8/91

A Member of the Board Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST TIMOTHY M. NORDWIG, R.N., RESPONDENT	: : : : :	STIPULATION

It is hereby stipulated by the parties as follows:

1. That the respondent understands by signing the stipulation that he voluntarily and knowingly waives his rights in this matter, including the right to a hearing on the allegations against him, at which time the state has the burden of proving the allegations by clear, satisfactory and convincing evidence, the right to confront and cross-examine the witnesses against him, the right to call witnesses on his own behalf and to compel their attendance by subpoena, the right to testify in his own behalf, 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 a 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.

2. That this stipulation and attached final decision and order shall be submitted to the Board of Nursing for purposes of reaching a final resolution of this matter.

3. That the respondent and the complainant urge the Board of Nursing to adopt this final decision and order in this matter.

4. That if the terms of this stipulation and final decision and order are not acceptable to the Board of Nursing, then neither of the parties shall be bound by any of the terms.

5. That the board advisor may speak to the board during their deliberations on this matter in favor of acceptance and adoption of this agreement.

12/2/88
Date

Michael J. Berndt
Attorney for Complainant

12/5/88
Date

Timothy M. Nordwig, R.N.

MJB:jrb
DOEATTY-101 (1)

EXHIBIT A

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST TIMOTHY M. NORDWIG, R.N. RESPONDENT.	: : : : :	FINAL DECISION AND ORDER

The parties to this action for the purposes of Wis. Stats. sec. 227.16 are:

Timothy M. Nordwig
609 Labaree Street
Watertown, WI 53094

Board of Nursing
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The rights of a party aggrieved by this decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information."

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition 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. That Timothy M. Nordwig, hereinafter the respondent, was at all times relevant to this complaint duly licensed to practice as a registered nurse in the State of Wisconsin.

2. That the respondent's registered nurse license is #60954 issued in September, 1974.

3. That the respondent's address is 609 Labaree Street, Watertown, Wisconsin 53094.

4. That on June 18, 1987, the respondent had disciplinary action taken against his license as a registered nurse in the State of Indiana.

5. That a copy of the findings of fact, conclusions of law and order from the Indiana proceeding are attached as Exhibit A.

6. That on or about June 8, 1988, the respondent was employed as a certified registered nurse anesthetist at the Watertown Memorial Hospital in Watertown, Wisconsin.

7. That on said date the respondent diverted and self-administered Sublimaze, a Schedule II controlled substance.

8. That on July 6, 1988, the respondent entered treatment as described in a letter dated November 14, 1988, attached as Exhibit B.

CONCLUSIONS OF LAW

By the conduct described above, Timothy M. Nordwig is subject to disciplinary action against his license pursuant to Wis. Stats. secs. 441.07(1)(c) and (3) and Wis. Adm. Code sec. N 7.04(2) and (15).

Therefore, it is hereby ORDERED:

(a) The license of Timothy M. Nordwig is SUSPENDED for a period of not less than two (2) years. 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.

i. Timothy M. Nordwig may apply for consecutive three (3) month extensions of the stay of suspension, which shall be granted upon Timothy M. Nordwig's acceptable demonstration of compliance with the conditions and limitations imposed on Timothy M. Nordwig's practice during the prior three (3) month period.

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

iii. Upon successful compliance for a period of two (2) years with the terms of paragraph (b), below, the Board shall grant a petition by Timothy M. Nordwig for a return of full licensure.

(b) CONDITIONS OF STAY.

i. Timothy M. Nordwig must remain in a program acceptable to the Board for the treatment of chemical dependency. In addition, Timothy M. Nordwig must attend Alcoholics Anonymous or Narcotics Anonymous at least one time per week.

ii. Upon request of the Board, Timothy M. Nordwig must provide the Board with current releases complying with state and federal laws, authorizing release of his treatment and monitoring records.

iii. Timothy M. Nordwig must remain free of alcohol and controlled substances not prescribed for a valid medical purpose during the period of limitation.

iv. Timothy M. Nordwig must participate in a program of random, witnessed monitoring, on the basis of at least four times per month for controlled substances and alcohol in his blood and/or urine. If the person supervising Timothy M. Nordwig's plan of care or his employer deems that additional blood or urine screens are warranted, Timothy M. Nordwig must submit to those screens.

Timothy M. Nordwig 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 must agree to provide random and witnessed gatherings of specimens for evaluation. Any specimen that yields a positive result for a controlled substance or alcohol shall be immediately subjected to a gas chromatography-mass spectrometry test to confirm the initial positive screen results. It must further agree to file an immediate report with the Board of Nursing upon such failures to participate as: if Timothy M. Nordwig fails to appear upon request; or if a drug or alcohol screen proves positive; or if Timothy M. Nordwig refuses to give a specimen for analysis upon a request authorized under the terms of this order.

The monitoring facility shall further agree to keep a formal record of the chain of custody of all specimens collected and subjected to analysis. The facility shall further agree to preserve any specimens which yielded positive results for controlled substances or alcohol, pending written direction from the Board.

v. Timothy M. Nordwig shall arrange for written quarterly reports to the Board of Nursing from his treatment facility, his employer or employers evaluating his work performance and from his monitoring facility providing the dates and results of the screenings performed. Nordwig shall report on a quarterly basis attendance at AA/NA meetings. The employer reports for Timothy M. Nordwig shall include a description of any access to controlled substances by Timothy M. Nordwig and shall address whether any pattern of diversion of drugs exists in the facility.

vi. Timothy M. Nordwig shall report to the Board within five (5) days of any change in his employment status and shall be employed by no more than two employers at a given time.

(c) Timothy M. Nordwig 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 the summary suspension of Timothy M. Nordwig's license, the denial of an extension of the stay of suspension, the imposition of additional conditions and limitations on Timothy M. Nordwig's practice, or the imposition of other additional discipline.

(e) That partial costs of the proceeding are assessed against the respondent in the sum of $250 payable to the Department of Regulation and Licensing within 30 days of the date of this order.

(f) This order shall become effective ten (10) days following the date of its signing.

BOARD OF NURSING

By: Mary Ann Clark (JR) 1-19-89

A Member of the Board Date

MJB:jrb
DOEATTY-101 (2-5)

BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NO. 87 NB 009

IN THE MATTER OF:
TIMOTHY NORDWIG, R.N.,
holder of Indiana nursing
license no. 28094282A,

Respondent.

FILED
JUN 24 1987
HEALTH PROFESSIONS BUREAU

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

An administrative hearing was held before the Indiana State Board of Nursing (hereinafter "Board") on the 18th day of June, 1987, at 9:15 o'clock, a.m., local time, in the board room of the Health Professions Bureau, located at One American Square, Suite 1020, Indianapolis, Indiana, 46282, concerning the Respondent Timothy Mark Nordwig's (hereinafter "Respondent") license to practice as a registered nurse, license no. 28094282A, in the State of Indiana.

The State of Indiana was represented by counsel, Beth A. Kistler, Deputy Attorney General, and the Respondent, appeared in person.

The Board members hearing this matter were: Mary Kay Caparros, R.N.; Roann Singhurse, L.P.N.; Sherry Smith, R.N.; John McKinley, L.P.N.; Geraldine Huber, R.N.; and Rebecca Brady, R.N.

The Board having considered the Complaint and Notice of Hearing and evidence, and taking judicial notice of its entire file in this matter, by a vote of 6 to 0, issues the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Respondent holds Indiana Registered Nurse's license number 28094282A.

2. The Complaint and Notice of Hearing was properly mailed to and received by Respondent pursuant to the notice provisions of IC 4-22-1-6.

3. This Board possesses and exercises special administrative expertise in determining whether or not certain practices or activities relate to the competent practice of nursing and/or

A (Exhibit A)

whether or not such practices constitute the incompetent practice of nursing.

4. Respondent was employed by Mary Sherman Hospital in Sullivan, Indiana as a Certified Registered Nurse Anesthetist with the condition that random urine samples would be provided by the Respondent. The condition was imposed because of the employer's knowledge that Respondent had completed a drug rehabilitation program.

5. A urine sample collected from Respondent while on duty, on or about January 27, 1986, tested positive for the presence of Meperidine (Demerol), a schedule II controlled substance.

6. When confronted with the test results, Respondent did not deny the use of Meperidine. Respondent entered into an agreement containing conditions of continued employment with Mary Sherman Hospital on or about March 18, 1986.

7. The conditions of continued employment contained the condition that any further evidence of substance abuse would result in the immediate termination of Respondent's employment.

8. A urine sample collected from Respondent, while on duty, on or about April 14, 1986 tested positive for the presence of Fentanyl, (Sublimaze) schedule II controlled substance.

9. When confronted with the results of the test, the Respondent did not deny the use of Fentanyl.

10. Respondent diverted Meperidine and Fentanyl while on duty as a registered nurse, from Mary Sherman Hospital for his personal use.

11. Respondent was addicted to Meperidine.

12. Respondent was addicted to Fentanyl.

13. Subsequent to his termination from Mary Sherman Hospital, Respondent participated in the impaired nurses' program of the Indiana State Nurses' Association and has been substance free for one year.

14. Respondent is currently employed as a registered nurse at Stoughton Memorial Hospital in Stoughton, Wisconsin, where he participates in a substance abuse after-care program on

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a weekly basis.

15. Respondent currently attends N/A or A/A meetings 2-4 times a week.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to hear this case and take disciplinary action against Respondent.

2. Respondent's conduct constitutes violations of IC 25-23-1-25.1(b)(1)(B), and IC 25-23-1-25.1(b)(4)(D), to-wit: IC 25-23-1-25.1:

> (b) A practitioner shall conduct his practice of registered nursing or practical nursing in accordance with the standards established by the board under this chapter and is subject to the exercise of the disciplinary sanctions under subsection (e) if, after a hearing, the board finds that:
>
> (1) a practitioner has:
>
> (B) engaged in fraud or material deception in the course of professional services or activities; or
>
> . . . .
>
> (4) a practitioner has continued to practice although he has become unfit to practice nursing due to:
>
> . . . .
>
> (D) addiction or severe dependency upon alcohol or other drugs which endangers the public by impairing a practitioner's ability to practice safely;

3. The violations referred to above warrant the imposition of disciplinary sanctions against Respondent.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board now issues the following Order:

The nurses' license of Respondent, Timothy Mark Nordwig is hereby placed upon probation for a period of two (2) years upon the following terms and conditions:

The Respondent shall provide reports to the Board on a quarterly basis which shall include a report from his immediate supervisor at work regarding his use of controlled substances and a report from his after-care therapist at Stoughton Memorial

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Hospital.

The Respondent shall keep the Board advised of his residence and place of employment.

The Respondent shall undergo random unannounced urine drug screens on demand at his own expense on a quarterly basis. The drug screens shall be witnessed and shall be conducted by a person to be designated by the Board.

All of which is ORDERED, ADJUDGED AND DECREED this 24th day of June, 1987 nunc pro tunc to the 18th day of June, 1987.

INDIANA STATE BOARD OF NURSING

By: William S. Keown
William S. Keown
Executive Director
Health Professions Bureau

BAK/dcm:3350S

SENT CERTIFIED MAIL NO. P 434 331 921, RETURN RECEIPT REQUESTED.

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MAR 3 1988

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

TIMOTHY M. NORDWIG, R.N.,

Respondent

ORDER MODIFYING THE FINAL DECISION AND ORDER

On January 19, 1989, the Board of Nursing issued its Final Decision and Order in the above-captioned matter. By the terms of the board's order, respondent's license was suspended for a period of two years, with provision for successive three month stays of the suspension conditioned upon compliance by respondent with certain terms and limitations on the license. Included among these was that respondent participate in a program of random witnessed monitoring of his blood or urine for alcohol and controlled substances on a basis of four times a month.

By letter received on August 25, 1989, respondent requested that the required frequency of urine screens be reduced from four times a month to once a month. The board considered the request at its meeting of September 21, 1989.

Based upon respondent's request, and all other information of record herein, the Board of Nursing hereby orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that paragraph (b)iv. of the board's Final Decision and Order in this matter dated January 19, 1989, be, and hereby is, modified to read as follows:

> iv. Timothy M. Nordwig must participate in a program of random, witnessed monitoring, on the basis of at least two times per month for controlled substances and alcohol in his blood and/or urine. If the person supervising Timothy M. Nordwig's plan of care or his employer deems that additional blood or urine screens are warranted, Timothy M. Nordwig must submit to those screens.

IT IS FURTHER ORDERED that all other terms and conditions of the board's Final Decision and Order dated January 19, 1989, shall remain unchanged.

Dated at Madison, Wisconsin this 25th day of ~~October~~ September, 1989.

STATE OF WISCONSIN
BOARD OF NURSING

by Mary Ann Clark
Mary Ann Clark, R.N. (m)
Chair

EXHIBIT B

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST TIMOTHY M. NORDWIG, R.N., RESPONDENT.	: : : :	ORDER MODIFYING THE FINAL DECISION AND ORDER (90 NUR 66)

On January 18, 1989 the Board of Nursing issued its Final Decision and Order in the above-captioned matter. By the terms of the Board's Order, Respondent's license was suspended for a period of two years, with provision for successive three month stays of the suspension conditioned upon compliance by Respondent with certain terms and limitations on the license. Included among these were that the Respondent would participate in a program of random witnessed monitoring of his blood or urine for alcohol and controlled substances on a basis of four times a month. Upon a request by the Respondent, the Board reduced the required frequency of urine screens to at least two times per month by an Order dated September 25, 1989.

Allegations have subsequently been received that the Respondent has diverted controlled substances while working as a nurse in March of 1990. Based on the attached Stipulation the Board of Nursing hereby orders as follows:

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that Paragraph a. of the Board's Final Decision and Order in this matter dated January 19, 1989, be, and hereby is modified to read as follows:

a. The license of Timothy M. Nordwig is suspended for a period of not less than two (2) years and six (6) months. 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.

IT IS FURTHER ORDERED that all other terms and conditions of the Board's Final Decision and Order dated January 19, 1989, as modified by the Board's Order dated September 25, 1989, shall remain unchanged.

IT IS FURTHER ORDERED that Nordwig's request dated April 16, 1990 for a reduction in drug screens from two (2) times per month to one (1) time per month is denied.

Dated at Madison, Wisconsin this 7 day of September, 1990.

STATE OF WISCONSIN
BOARD OF NURSING

Jacqueline Johnsrud RN
By A Member of the Board

MB:skv
DOEATTY-1198

EXHIBIT C

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST TIMOTHY M. NORDWIG, R.N., RESPONDENT.	: : : : :	STIPULATION (90 NUR 66)

It is hereby stipulated between Timothy M. Nordwig, R.N., personally on his own behalf and Michael J. Berndt, 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 Nordwig's licensure by the Division of Enforcement (90 NUR 66). Nordwig consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Nordwig 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 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. That allegations were received in case 90 NUR 66 that Nordwig diverted controlled substances while working as a nurse on three occasions in March, 1990.

4. That the Respondent denies the allegations that he diverted controlled substances in March, 1990.

5. That the two drug screens performed on the Respondent during March, 1990 were negative.

6. That the Respondent is in compliance with all treatment requirements.

7. That in an effort to resolve this matter the Respondent;

a. Withdraws his request dated April 16, 1990, for a reduction in drug screens from two per month to one per month; and
b. Agrees to extend the Order dated January 19, 1989, as amended, for an additional six months as provided in the attached Order Modifying the Final Decision and Order.

8. 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.

9. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Order Modifying the Final Decision and Order without further notice, pleading, appearance or consent of the parties.

10. The Division of Enforcement joins Timothy M. Nordwig in recommending the Board of Nursing adopt this Stipulation and issue the attached Order Modifying the Final Decision and Order.

Timothy M. Nordwig, R.N. — Date: 8/7/90

Michael J. Berndt, Attorney
Division of Enforcement — Date: 8/6/90

MJB:skv
DOEATTY-1196

BEFORE THE STATE OF WISCONSIN
BOARD OF NURSING

IN THE MATTER OF THE PETITION FOR THE EXTENSION OF STAY OF TIMOTHY M. NORDWIG, R.N., PETITIONER	: : : : :	NOTICE OF DENIAL

TO: Timothy M. Nordwig, R.N.
609 Labaree Street
Watertown, WI 53094

PLEASE TAKE NOTICE THAT the State of Wisconsin Bureau of Health Service Professions, having reviewed a petition for extension of stay of suspension of your license, and having reviewed the contents of the file in this matter, hereby denies the petition for the following reasons:

1) Your failure to submit complete work and monitoring reports, covering all employers and drug screens for the past period of stayed suspension; and

2) Your failure to maintain abstinence from controlled substances during the past period of stayed suspension.

NOW, THEREFORE, IT IS ORDERED that the petition of Timothy M. Nordwig, R.N. for the extension of stay is hereby denied and the license of Mr. Nordwig is hereby suspended effective May 9, 1991.

PLEASE TAKE NOTICE THAT under the provisions of the Board order dated January 19, 1989, you have a right to a hearing on the denial of your petition for the extension of stay if you file a request for hearing in accordance with the provisions of Chapter RL 1, Wis. Adm. Code. You may request a hearing within thirty (30) days after the mailing of this notice of denial. Your request must contain your name and address, the type of license for which you have applied, the reasons why you are requesting a hearing, the facts which you intend to prove at the hearing, and a description of the mistake, if any, you believe was made. Within twenty (20) days of receipt of a request for hearing, the board shall grant or deny the request. You will be notified in writing of the board's decision. The filing of a request for hearing on the denial does not act to stay the suspension of your license.

Dated this 7th day of May, 1991.

Ramona Weakland Warden

Ramona Weakland Warden, Director
State of Wisconsin
Bureau of Health Service Professions

EXHIBIT D

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST TIMOTHY M. NORDWIG, R.N., RESPONDENT	: : : :	STIPULATION

It is hereby stipulated between Timothy M. Nordwig, on his own behalf and by his attorney, James A. Walrath; and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered in resolution of the pending proceedings concerning Mr. Nordwig's license. The stipulation and order shall be presented directly to the Board of Nursing for its consideration for adoption.

2. Mr. Nordwig 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. Mr. Nordwig agrees to the adoption of the attached Final Decision and Order by the Board of Nursing.

4. If the Board accepts the terms of this Stipulation, 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. 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.

5. The parties to this stipulation agree that the attorneys for the parties may appear in person or telephonically 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.

6. The Division of Enforcement joins Mr. Nordwig in recommending the Board of Nursing adopt this Stipulation and issue the attached Final Decision

and Order.

Timothy M Nordwig RN
Timothy M. Nordwig, R.N.

9/20/91
Date

James A. Walrath, Attorney
for Mr. Nordwig

9/26/91
Date

Steven M. Gloe, Attorney
Division of Enforcement

9/27/91
Date

NOTICE OF APPEAL INFORMATION

(N tice f Rights for Rehearing r Judicial Review, th times allowed f r 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 dispositi n 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 dispositi n 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 November 12, 1991.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employe trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission,

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.