

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JOHN D. BERG, C.R.N.A.,
RESPONDENT

:
:
:
:
:

FINAL DECISION AND ORDER
91 NUR 058

ORDER 0001755

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

John D. Berg
5437 West Fisk Avenue
Oshkosh, WI 54904

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. By signing the stipulation, John D. Berg does not admit or concede any liability or conduct falling below minimally acceptable standards for the practice of nursing anesthesia. Rather, the stipulation is a resolution of contested proceedings.

The Board has reviewed the Stipulation and considers it acceptable. Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. John D. Berg (D.O.B. 07/09/47) is duly licensed in the state of Wisconsin to practice as a registered nurse (license #067892). This license was first granted on September 16, 1977.

2. Mr. Berg's latest address on file with the Department of Regulation and Licensing is 5437 West Fisk Avenue, Oshkosh, WI 54904.

3. On or about February 18, 1991, Mr. Berg provided nursing care as a certified nurse anesthetist to an infant, JB, at Saint Elizabeth's Hospital in Appleton, Wisconsin.

CONCLUSIONS OF LAW

The Board of Nursing is authorized to impose disciplinary action against the license of John D. Berg to practice as a registered nurse in the state of Wisconsin, pursuant to the terms of the attached stipulation and Wis. Stats. §§ 441.07(1), and Wis. Adm. Code §NUR 7.03(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT

1. John D. Berg shall not perform or supervise the performance of anesthetics on any child twenty-four (24) months of age or younger [except as set forth in ¶ 2(e), below].
2. Mr. Berg may petition for a return to full and unconditional licensure upon submission of proof that Mr. Berg has completed retraining acceptable to the Board as set forth below:
 - a. 40 credit hours of continuing education in the areas of neonatal and infant anesthesia;
 - b. Recertification in cardiopulmonary resuscitation;
 - c. Recertification in Advanced Cardiac Life Support;
 - d. Certification in Pediatric Life Support;
 - e. Completion of at least twenty-five (25) cases of supervised delivery of infant or neo-natal anesthesia. Supervision shall be direct one-on-one supervision, provided by a health care professional acceptable to the Board. Mr. Berg shall complete the education specified in subsections a, b, c, and d, above, prior to any commencement of training under this paragraph. Also prior to the commencement of training under this paragraph, Mr. Berg shall obtain approval from the Board of Nursing of the health care provider supervising his work. The performance of supervised infant/neo-natal anesthesia by Mr. Berg under the terms of this paragraph is specifically authorized by the Board.
4. Any training taken pursuant to this Order shall be pre-approved by a member or a designated agent of the Wisconsin Board of Nursing. Acceptable documentation of completion of training shall include certification from the sponsoring organization/instructor as well as an affidavit executed by Mr. Berg verifying that he successfully completed the coursework and/or practicum in its entirety.
5. The Board in its discretion may require Mr. Berg to appear before the Board in conjunction with its consideration of a petition under this Order. 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.

6. Mr. Berg shall provide his employer and any prospective employers with a copy of this Final Decision and Order immediately upon issuance of this Order. During the period of time that the terms of this order remain in effect, Mr. Berg shall provide any prospective employers with a copy of this Final Decision and Order.

7. 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 Mr. Berg's license or in the imposition of other additional discipline.

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

BOARD OF NURSING

By: Jacqueline Johnson RN MS 7/16/93
A member of the Board Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
JOHN D. BERG, C.R.N.A.,	:	91 NUR 058
RESPONDENT	:	

It is hereby stipulated between John D. Berg personally on his own behalf 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. Berg's license. The stipulation and order shall be presented directly to the Board of Nursing for its consideration for adoption.

2. Mr. Berg 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. Berg is aware of his right to seek legal representation and has obtained legal advice prior to signing this stipulation.

4. Mr. Berg 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. Attached to this Stipulation is the current licensure card of John D. Berg. If the Board accepts the Stipulation, Mr. Berg's license shall be reissued in accordance with the terms of the attached Final Decision and Order. If the Board does not accept this Stipulation, the license of Mr. Berg shall be returned to him with a notice of the Board's decision not to accept the Stipulation.

7. 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 of Nursing in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

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

John D Berg C.R.N.A.
John D. Berg, C.R.N.A.

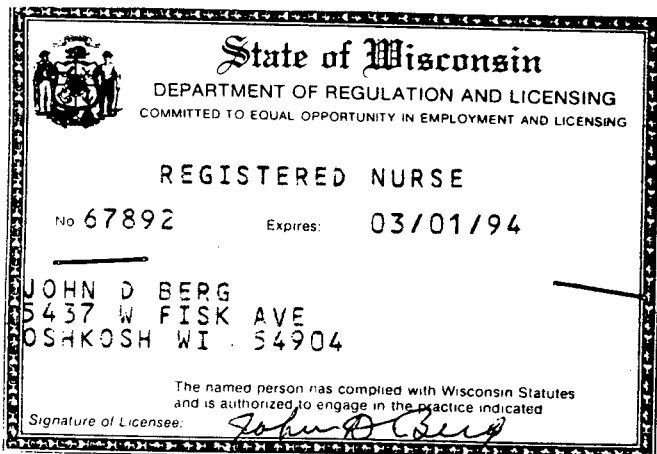
05-24-93
Date

Ralph V. Topinka
Ralph V. Topinka, Attorney
for Mr. Berg

5-26-93
Date

Steven M. Gloe
Steven M. Gloe, Attorney
Division of Enforcement

5.27.93
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 July 23, 1993.



PDF: DE00000001015-19930716

Order Dates:

JUL 16, 1993

Respondent Names:

BERG, JOHN D.

Complaint IDs:

91NUR058

Profession:

REGISTERED NURSE

Boards:

NUR

Short Description:

LIMITED.

Case Summary:

PROVIDED NURSING CARE AS A CERTIFIED NURSE ANESTHETIST TO AN
INFANT.

