

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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State of Wisconsin
Before the Nursing Home Administrator Examining Board

In the Matter of the Disciplinary Proceedings Against

Bruce Schlei, NHA
Respondent.

Case No. LS 9801151 NHA

Final Decision and Order

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

Bruce Schlei, NHA
3923 Lake Mary Drive
Vulcan MI 49892

Nursing Home Administrator Examining Board
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 attached stipulation, the Board makes the following

Findings of Fact

1. Bruce Schlei, respondent, was born June 23, 1960, and is licensed to practice nursing home administration pursuant to license number 2019, first granted January 21, 1985. At all times relevant to this proceeding, Respondent was the administrator of Florence Villa, Florence, Wisconsin.
2. On October 18, 1993, Mr. Schlei received a letter from the Wisconsin Department of Health and Social Services, now Health and Family Services, immediately withdrawing approval of the nurse aide training program operated by Florence Villa.
3. Mr. Schlei represents that he understood the letter to mean that Florence Villa could not operate the nurse aide training program at Florence Villa, but could operate the program at another location.

4. Shortly after receiving the letter withdrawing approval of the Florence Villa nurse aide training program, Mr. Schlei made an initial phone call to the administrator of Mary Hill Manor, a nursing home approximately 25 miles distant from Florence Villa, and requested that Florence Villa be allowed to use Mary Hill Manor as the site of the Florence Villa nurse aide training program.

5. Mr. Schlei told the administrator of Mary Hill Manor that the Florence Villa training room was unavailable because of remodeling construction. The training room was remodeled/relocated in October 1993, but Mr. Schlei did not disclose the fact that the state had withdrawn approval of the Florence Villa nurse aide training program to the administrator or any other agent of Mary Hill Manor. The administrator of Mary Hill Manor agreed to permit Florence Villa operate its nurse aide training course at Mary Hill Manor.

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Conclusions of Law

1. The Nursing Home Administrator Examining Board has jurisdiction matter pursuant to s. 456.10, Stats.
2. Mr. Schlei's conduct in continuing to operate the nurse aide training program after the withdrawal of approval for that program is improper administration of a nursing home, and constitutes unfitness to practice nursing home administration within the meaning of s. 456.10(1)(a), Stats.

Order

Now, therefore, it is ordered that the license previously issued to Bruce Schlei, NHA is suspended for a period of 1 week, effective on the date of this order.

It is further ordered that Bruce Schlei shall pay costs of this proceeding in the amount of \$5000, pursuant to s. 440.22, Stats.

It is further ordered that the investigation in 93 NHA 001 be closed without further action.

Dated this 20th day of August 1998

Nursing Home Administrator Examining Board

Shirley B. Keller
A member of the Board

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State of Wisconsin
Before the Nursing Home Administrator Examining Board

In the Matter of Disciplinary Proceedings Against

Bruce Schlei, NHA
Respondent
Case No. LS 9801151 NHA

Stipulation

It is hereby stipulated between Bruce Schlei, NHA, personally and on his own behalf and Wanda Hurr, Mr. Schlei's counsel, 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 Mr. Schlei's license. The Stipulation and the proposed Final Decision and Order shall be presented directly to the Nursing Home Administrator Examining Board for its consideration and adoption.
2. In resolution of these proceedings, Mr. Schlei consents to the entry of the attached Final Decision and Order.
3. Mr. Schlei is aware of and understands each of his rights, including:
 - the right to a hearing on the allegations against him, 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 him,
 - the right to call witnesses on him own 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,
 - the right to be represented at every stage of the proceeding, including the making of any stipulation, by an attorney of his choosing, at his own expense,
 - all other rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
4. Mr. Schlei is aware and understands that by signing this stipulation he 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

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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 Nursing Home Administrator Examining Board 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. A press release will be prepared and distributed to all press boxes in the State Capitol building, to the press in the community where respondent resides and practices, and to individuals and organizations included on a mailing list maintained by the department. This is standard department procedure and in no way specially directed at Respondent.

Bruce Schlei
Bruce Schlei, NHA

June 15, 1998
Date

Wanda Hurr
Wanda Hurr
Davis & Kuelthau
Milwaukee, Wisconsin
Attorney for Mr. Schlei

June 15, 1998
Date

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

June 15, 1998
Date

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE NURSING HOME ADMINISTRATOR EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Bruce Schlei, NHA,

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 August 25, 1998, I served the Final Decision and Order dated August 20, 1998, and Guidelines for Payment of Costs and/or Forfeitures, LS9801151NHA, upon the Respondent Bruce Schlei's attorney by enclosing true and accurate copies of the above-described documents 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 Z 233 819 714.

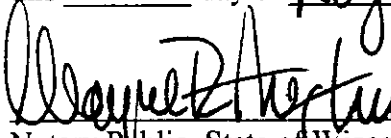
Wanda Hurr. Attorney
111 E. Kilbourn, Suite 1400
Milwaukee WI 53202-4285



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 25th day of August, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: WANDA HURR ATTY

You have been issued an Order. For purposes of service the date of mailing of this Order is 8/25/98. 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 Order 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 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 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 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 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 NURSING HOME ADMINISTRATOR EXAMINING BOARD
1400 East Washington Avenue
P.O. Box 8935
Madison WI 53708-8935