

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE NURSING HOME ADMINISTRATORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

THOMAS E. WIRNSBERGER, :
RESPONDENT :

FINAL DECISION AND ORDER

97 NHA 007

LS9802181NHA

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Thomas E. Wirnsberger
819 S. 90th St.
West Allis, WI 53214

Nursing Home Administrators Examining Board
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. Thomas E. Wirnsberger (D.O.B. 05/02/43) is duly licensed to practice as a Nursing Home Administrator in the state of Wisconsin (license #2470). This license was first granted on July 19, 1990.

2. Mr. Wirnsberger's most recent address on file with the Wisconsin Nursing Home Administrators Examining Board is 819 S. 90th St., West Allis, WI 53214.

3. In resolution of the investigation pending against his license and in recognition of his current health condition, Mr. Wirnsberger tenders surrender of his administrator's license and consents to the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Nursing Home Administrators Examining Board has jurisdiction over this matter, pursuant to sec. 456.02(5), Stats.

2. The Wisconsin Nursing Home Administrators Examining Board is authorized to enter into the attached stipulation, pursuant to secs. 227.44(5) and 456.10, Stats and Wisconsin Administrative Code § NHA 5.02(8).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Thomas E Wirnsberger shall SURRENDER his license to practice as a Nursing Home Administrator in the State of Wisconsin, effective immediately. Should Mr. Wirnsberger reapply for Wisconsin licensure, the Board may in its sole discretion determine whether, and under what terms and conditions, this license may be reissued.

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

NURSING HOME ADMINISTRATORS EXAMINING BOARD

By: Shirley R Keller NHA
On behalf of the Board

FEB 18, 1998
Date

STATE OF WISCONSIN
BEFORE THE NURSING HOME ADMINISTRATORS EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
THOMAS E. WIRNSBERGER,	:	97 NHA 007
RESPONDENT	:	

It is hereby stipulated between Thomas E Wirnsberger, 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 into as a result of a pending investigation of Mr. Wirnsberger's licensure by the Division of Enforcement (97 NHA 007). Mr. Wirnsberger consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Mr. Wirnsberger 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. Wirnsberger is aware of his right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this stipulation.

4. Mr. Wirnsberger agrees to the adoption of the attached Final Decision and Order by the Nursing Home Administrators Examining Board. 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 certificate and current licensure card of Thomas E Wirmsberger. If the Board does not accept this Stipulation, the credentials of Mr. Wirmsberger 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 member of the Board assigned to this case as an advisor and the attorney for the Division of Enforcement may appear before the final decision maker in these proceedings for the purposes of speaking in support of this agreement and answering questions that the final decision maker may have in connection with him or his deliberations on the stipulation.

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

Thomas E. Wirmsberger
Thomas E. Wirmsberger

12.30.97
Date

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

1.5.98
Date

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

In the Matter of the Disciplinary Proceedings Against

Thomas E. Wirnsberger,

AFFIDAVIT OF MAILING

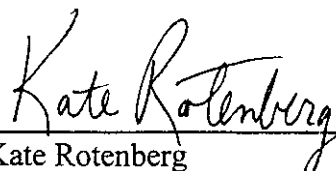
Respondent.

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:

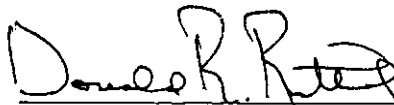
1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On February 20, 1998, I served the Final Decision and Order dated February 18, 1998, LS9802181NHA, upon the Respondent Thomas E. Wirnsberger by enclosing a true and accurate copy of the above-described document in an envelope 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 221 158 786.
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:

Thomas E. Wirnsberger
819 S. 90th Street
West Allis WI 53214



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me
this 20th day of February, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: THOMAS E WIRNSBERGER

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 2/20/98. 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 NURSING HOME ADMINISTRATORS EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935