

# 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

Wayne Brow, NHA  
Respondent.

LS980622INHA

FINAL DECISION AND ORDER

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

Wayne Brow  
500 W Bradley Road. #314  
Fox Point WI 53217

Nursing Home Administrators 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 Nursing Home Administrators Examining Board makes the following:

FINDINGS OF FACT

1. Wayne Brow, respondent in this matter, was born on August 19, 1943, and is licensed to practice as a nursing home administrator in the state of Wisconsin pursuant to license number 1644 first granted on December 15, 1980.
2. Hartford Care Center employed Gloria Miller, R.N., from May 18, 1994, until May 19, 1997. During this period, Respondent was administrator of Hartford Care Center.
3. On September 9, 1996, and again on December 9, 1996, Gloria Miller was the subject of a written personnel conference and report related to complaints from residents' families about specific instances of allegations of abuse or other violations or residents' rights. Wayne Brow signed the reports of both conferences.

4. A nursing home is required to make a prompt report all allegations of abuse or violations of residents right committed by a registered nurse to the Board of Nursing.

5. No report of any of these allegations was made to the Board of Nursing before they were discovered during a State inspection of Hartford Care Center in May 1997.

#### CONCLUSIONS OF LAW

1. The Nursing Home Administrators Examining Board has jurisdiction in this matter pursuant to s. 456.10, Stats.

2. Respondent's failure to promptly report the allegations of violations of residents' rights he knew about to the Board of Nursing in accordance of s. HSS 132.31(6)(c), Wis. Admin. Code, constitutes actions inconsistent with the health and safety of the residents of home in which Respondent was the administrator, under s. 456.10(1)(b), Stats.

#### ORDER

Now, therefore, it is ordered that Wayne Brow, NHA, be and hereby is Reprimanded.

It is further ordered that Wayne Brow, NHA, shall pay the costs of this proceeding, pursuant to s. 440.22, Stats., in the amount of \$500.00.

Dated this 22 day of June, 1998.

  
A Member of the Board

State of Wisconsin  
Before the Nursing Home Administrators Examining Board

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In the Matter of Disciplinary Proceedings Against

Wayne Brow, NHA  
Respondent  
Case No. 97 NHA 021

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Stipulation  
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It is hereby stipulated between Wayne Brow, personally and on his 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 Mr. Brow's license. The Stipulation and the proposed Final Decision and Order shall be presented directly to the Nursing Home Administrators Examining Board for its consideration and adoption.

2. In resolution of these proceedings, Mr. Brow consents to the entry of the attached Final Decision and Order.

3. Mr. Brow 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. Brow 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

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 Administrators 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. This is standard department procedure and in no way specially directed at Respondent.

Wayne Brow  
Wayne Brow

May 11, 1998  
Date

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

May 4 1998  
Date

# Department of Regulation & Licensing

State of Wisconsin

P O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech  
TRS# 1-800-947-3529, impaired only

## GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On June 22, 1998, the Nursing Home Administrator Examining Board  
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a  
forfeiture.

The amount of the costs assessed is: \$500.00 Case #: LS9806221NHA

The amount of the forfeiture is: \_\_\_\_\_ Case # \_\_\_\_\_

Please submit a check or a money order in the amount of \$500.00

The costs and/or forfeitures are due: July 22, 1998

NAME: Wayne Brow LICENSE NUMBER: 1644

STREET ADDRESS: 500 W. Bradley Road #314

CITY: Fox Point STATE: WI ZIP CODE: 53217

Check whether the payment is for costs or for a forfeiture or both:

COSTS  FORFEITURE

Check whether the payment is for an individual license or an establishment license:

INDIVIDUAL  ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

**DEPARTMENT OF REGULATION AND LICENSING**  
**1400 E. WASHINGTON AVE., ROOM 141**  
**P.O. BOX 8935**  
**MADISON, WI 53708-8935**

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

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**For Receiving Use Only**

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

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In the Matter of the Disciplinary Proceedings Against

Wayne Brow, NHA,

AFFIDAVIT OF MAILING

Respondent.

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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 July 7, 1998, I served the Final Decision and Order dated June 22, 1998, and Guidelines for Payment of Costs and/or Forfeitures, LS9806221NHA, upon the Respondent Wayne Brow, NHA by enclosing true and accurate copies of the above-described documents 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 Z 233 819 536.

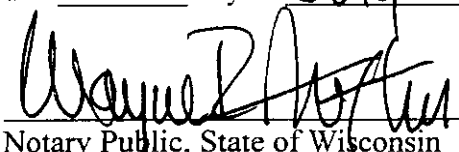
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

Wayne Brow, NHA  
500 W. Bradley Road, #314  
Fox Point WI 53217

  
\_\_\_\_\_  
Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

Subscribed and sworn to before me

this 7th day of July, 1998.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin

My commission is permanent.

## NOTICE OF RIGHTS OF APPEAL

TO: WAYNE BROW NHA

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 7/7/98 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