

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

**FILE COPY**

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

DAVID S. GUSTAFSON, R.N.,

RESPONDENT.

:  
:  
:

FINAL DECISION AND ORDER

97 NUR 156

LS9809171NUR

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

David S. Gustafson  
Dodge Correctional Institution  
P.O. Box 700  
Waupun, WI 53963

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

**FINDINGS OF FACT**

1. David S. Gustafson (D.O.B. 12/16/58) is duly licensed as a registered nurse in the state of Wisconsin (lic #108690). This license was first granted on November 22, 1991.
2. Respondent's most recent address on file with the Department of Regulation and Licensing is 3944 N. 28th Street, Sheboygan, WI 53083. Respondent's current residence address is P.O. Box 700, Waupun, WI 53963.

3. Respondent has an extended history of drug abuse dating to age 14. Respondent has received inpatient and outpatient drug treatment since 1991. An evaluation of Respondent's condition by the Sheboygan Memorial Medical Center on 4/28/97 resulted in a diagnosis of poly drug dependence and depressive disorder.
4. Respondent has experienced frequent relapses even during residential treatment. Respondent's recent drugs of choice include morphine, Demerol and ephedrine.
5. In June, 1997, while employed as an emergency room registered nurse at St. Mary's Hospital, Mequon, Wisconsin, Respondent diverted 7 100mg Demerol carpules from emergency room supplies for his own use.
6. On 7/15/98, Respondent was convicted in the Sheboygan County Circuit Court of the criminal offense of injury by intoxicated use of a vehicle and was sentenced to 54 months in prison.
7. Respondent is not currently practicing as a nurse, and tenders the voluntary revocation of his license to practice as a nurse in the state of Wisconsin.

### **CONCLUSIONS OF LAW**

By the conduct described above, David S. Gustafson 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(b), (c) and (d) and Wis. Adm. Code sec. N 7.03(2) and N 7.04(1), (2) and (15).

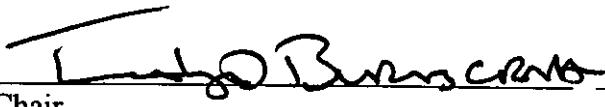
### **ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The stipulation of the parties is accepted.
2. The license of David S. Gustafson to practice as a registered nurse in the state of Wisconsin is REVOKED.
3. In the event Respondent shall ever re-apply for a license to practice as a nurse in the state of Wisconsin, he shall, in addition to all other requirements for licensure, demonstrate to the satisfaction of the Board of Nursing that he does not have a chemical dependence, and that he can safely and reliably perform nursing functions.

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

**Wisconsin Board of Nursing**

By:  17 SEP 98  
Chair Date

jh

13:03 PM 3-20-00  
RECEIVED  
COMMUNITY & HEALTH  
DEPT

## STATE OF WISCONSIN

### BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

DAVID S. GUSTAFSON, R.N.,  
RESPONDENT.

STIPULATION  
97 NUR 156

It is hereby stipulated between David S. Gustafson, personally on her own behalf, and James W. Harris, 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 Respondent's licensure by the Division of Enforcement. Respondent consents to the resolution of this investigation by Stipulation and without the issuance of a formal complaint. Respondent hereby tenders the **voluntary revocation** of his license to practice as a nurse in the state of Wisconsin.
2. Respondent 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. Respondent is aware of his right to seek legal representation and has been provided the opportunity to seek legal advice prior to signing this Stipulation.
4. Respondent 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 Respondent.
7. The parties to this Stipulation agree that the attorney for the Division of Enforcement may appear 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.
8. The Division of Enforcement joins respondent in recommending the Board of Nursing adopt this Stipulation and issue the attached Final Decision and Order.

David S. Gustafson R.N.      7/28/98  
David S. Gustafson, R.N.      Date

James W. Harris      August 3, 1998  
James W. Harris, Attorney      Date  
Division of Enforcement

STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING  
BEFORE THE BOARD OF NURSING

In the Matter of the Disciplinary Proceedings Against

David S. Gustafson, R.N.,

AFFIDAVIT OF MAILING

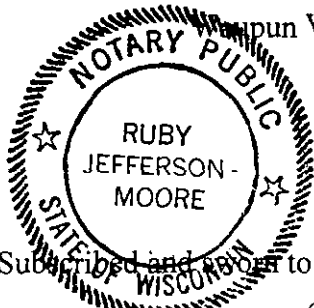
Respondent.

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 September 21, 1998, I served the Final Decision and Order dated September 17, 1998, LS9809171NUR, upon the Respondent David S. Gustafson, R.N. 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 Z 233 819 816.
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:

David S. Gustafson, R.N.  
Dodge Correctional Institution  
P.O. Box 700  
Wausau WI 53963



Subscribed and sworn to before me

this 21st day of September, 1998.

Ruby Jefferson-Moore  
Notary Public, State of Wisconsin  
My commission is permanent.

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

## NOTICE OF RIGHTS OF APPEAL

TO: DAVID S GUSTAFSON RN

You have been issued an Order. For purposes of service the date of mailing of this Order is 9/21/98. 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 BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935