

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :

DAVID SIGFRID RICHARD GUSTAFSON, :  
RESPONDENT. :

FINAL DECISION AND ORDER

LS9809172NUR

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**Division of Enforcement**  
**Case No. 98 NUR 042**

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

David Sigfrid Richard 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 this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. David Sigfrid Richard Gustafson (D.O.B. 12/16/58) is duly licensed to practice as a registered nurse in the state of Wisconsin (license #108690). This license was first granted on November 22, 1991.

2. Mr. Gustafson's most recent address on file with the Wisconsin Board of Nursing is Dodge Correctional Institution, P.O. Box 700, Waupun, WI 53963.

3. On or about July 15, 1998, Respondent was found guilty of injury by intoxicated use/vehicle, in violation of sec. 940.25(1)(a) Stats. A true and correct copy of the criminal complaint and judgment of conviction in this matter is attached to this document as Exhibit A. Exhibit A is incorporated by reference into this document.

4. In resolution of this matter, Mr. Gustafson consents to the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter, pursuant to sec. 441.07(1), Wis. Stats.

2. The Wisconsin Board of Nursing is authorized to enter into the attached stipulation, pursuant to sec. 227.44(5), Stats.

3. The conviction referred to in paragraph 3 above constitutes a basis for disciplinary action against Respondent's license to practice as a registered nurse in the state of Wisconsin, pursuant to sec. 441.07(1)(c), Stats. and Wisconsin Administrative Code § 7.04(1).

#### ORDER

**NOW, THEREFORE, IT IS HEREBY ORDERED** that the Board accepts SURRENDER of the license of David Sigfrid Richard Gustafson (license #108690) to practice as a registered nurse in the State of Wisconsin.

IS FURTHER ORDERED that should Mr. Gustafson reapply for Wisconsin licensure, the Board may in its sole discretion determine whether, and under what terms and conditions, a license may be reissued.

BOARD OF NURSING

By:

Leo O Burns 17 SEP 98

On behalf of the Board

Date

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
DAVID SIGFRID RICHARD GUSTAFSON,	:	
RESPONDENT	:	

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It is hereby stipulated between David Sigfrid Richard Gustafson, 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. Gustafson's licensure by the Division of Enforcement (98 NUR 042). Mr. Gustafson consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

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

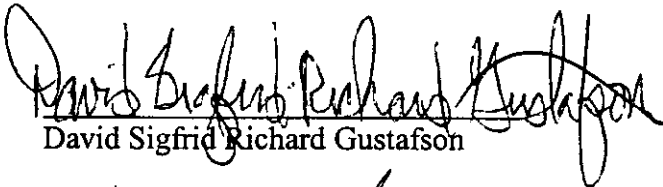
4. Mr. Gustafson agrees to the adoption of the attached Final Decision and Order by the Board of Nursing. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to 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.

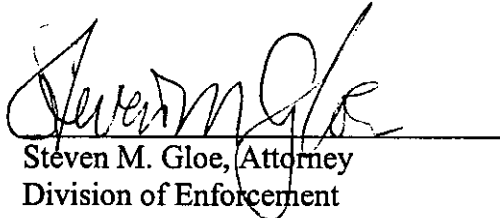
6. Attached to this Stipulation is the current licensure card of David Sigfrid Richard Gustafson. If the Board accepts the Stipulation, Mr. Gustafson's license shall be reissued only in accordance with the terms of the attached Final Decision and Order. If the Board does not accept this Stipulation, the credentials of Mr. Gustafson shall be returned to this 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 his or her deliberations on the stipulation.

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

  
David Sigfrid Richard Gustafson

8/8/98  
Date

  
Steven M. Gloe, Attorney  
Division of Enforcement

8/24/98  
Date

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

In the Matter of the Disciplinary Proceedings Against

David Sigfrid Richard Gustafson,

AFFIDAVIT OF MAILING

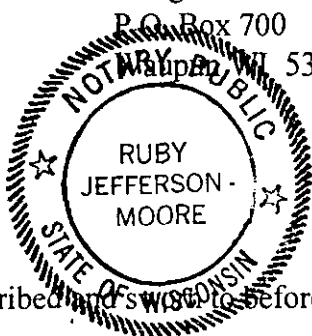
Respondent.

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, LS9809172NUR, upon the Respondent David Sigfrid Richard Gustafson 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 233 819 817.
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 Sigfrid Richard Gustafson  
Dodge Correctional Institution  
P.O. Box 700  
Superior, WI 54983



Subscribed and sworn to before me

this 21<sup>ST</sup> 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 SIGFRID RICHARD GUSTAFSON

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