

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

State of Wisconsin
Before the Nursing Home Administrator Examining Board

In the Matter of Disciplinary Proceedings Against

Thomas Wondolkowski, N.H.A.

Respondent

Case No. LS9812163NHA

Final Decision and Order

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

Thomas Wondolkowski
2620 East 4th Street
Superior WI 54880

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 Nursing Home Administrator Examining Board makes the following:

FINDINGS OF FACT

1. Thomas Wondolkowski was born on November 20, 1955, and was licensed as a Nursing Home Administrator on March 12, 1996, license number 2838. Mr. Wondolkowski allowed the license to lapse on June 30, 1998.
2. Mr. Wondolkowski was Administrator of St. Francis Home South in Superior, Wisconsin, from May 15, 1996, through May 29, 1997.
3. In February 1997 and again in March 1997, St. Francis Home South was inspected by surveyors of the Department of Health and Family Services, Bureau of Quality Assurance. As a result of those inspections, the Bureau of Quality Assurance determined that the facility administered by Mr. Wondolkowski was providing substandard quality of care to its residents.

4 On each of the February and March 1997 inspection visits, Mr. Wondolkowski was provided with a detailed statement of the deficiencies from the standards required by state and federal codes for long term care facilities.

5. Bureau of Quality Assurance inspectors returned to the facility on May 16, 1997, and discovered that the facility continued to be out of substantial compliance with federal and state requirements for quality of care in long term care facilities.

CONCLUSIONS OF LAW

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

2. Mr. Wondolkowski's failure to administer St. Francis Home South in a manner adequate to meet the standards of care required by state and federal codes for the quality of care for long term care facilities, and his failure to promptly correct deficiencies brought to his notice, constitutes practice in a manner which substantially departs from the standard of care ordinarily exercised by a nursing home administrator which harms or could have harmed a patient, contrary to s. NHA 5.02(2), Wis. Admin. Code.

ORDER

Now, therefore, the license previously issued to Thomas Wondolkowski to practice as a nursing home administrator is **SUSPENDED** indefinitely.

It is further ordered that the suspension shall remain in effect for four weeks following the date that the Board grants a petition by Mr. Wondolkowski to re-instate the license.

It is further ordered that the Board will not consider any petition for re-instatement which does not meet the following conditions:

1. Proof that Mr. Wondolkowski has successfully completed remedial training on the topic of quality of care required of long term care facilities by 42 CFR 483, Subpart B. Mr. Wondolkowski shall be responsible for designing a program of remedial education by means of Board approved education providers. The program shall include detailed instruction in the following topics:

- a. Resident rights in a long term care facility.
- b. Resident admission, transfer, and discharge rights.
- c. Resident behavior and facility practices.
- d. Resident quality of life standards in long term care facilities.
- e. Resident assessment in long term care facilities.
- f. Quality of care standards in long term care facilities.
- g. Nursing services standards in long term care facilities.
- h. Dietary services standards in long term care facilities.
- i. Physician services standards in long term care facilities.
- j. Specialized rehabilitative services standards in long term care facilities.

- k. Dental services standards in long term care facilities.
- l. Pharmacy services standards in long term care facilities.
- m. Infection control standards in long term care facilities.
- n. Physical environment standards in long term care facilities.
- o. Administration standards in long term care facilities.

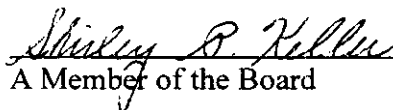
2. Mr. Wondolkowski shall obtain approval of his proposed program of remedial education from the Board or its designee before he undertakes any part of the program. The Board designates Michelle Neverman, Department Monitor, P.O. Box 8935, Madison, Wisconsin 53708 as the contact person for all communication by Mr. Wondolkowski to the Board in regard to compliance with remedial education program required by this Order.

3. Mr. Wondolkowski shall be responsible for all financial requirements of compliance with this Order.

4. Mr. Wondolkowski shall pay the costs of this proceeding, pursuant to s. 440.22, Stats., in the amount of \$350.00.

Dated this 16th day of December, 1998.

Wisconsin Nursing Home Administrator Examining Board


A Member of the Board

State of Wisconsin
Before the Nursing Home Administrator Examining Board

In the Matter of Disciplinary Proceedings Against

Thomas Wondolkowski, NHA
Respondent

Case No. LS9812163NHA

Stipulation

It is hereby stipulated between Thomas Wondolkowski, NHA, 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. Wondolkowski'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. Wondolkowski consents to the entry of the attached Final Decision and Order.
3. Mr. Wondolkowski 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 his 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. Wondolkowski 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.

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DOE 97 NHA 008

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

Thomas Wondolkowski
Thomas Wondolkowski, NHA

12-5-98
Date

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

Nov 16 1998
Date

↓. ok you win. you got me over a barrel
and I can't afford to fight this process any longer

BEFORE THE STATE OF WISCONSIN
NURSING HOME ADMINISTRATOR EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : AFFIDAVIT OF MAILING
 :
 THOMAS WONDOLKOWSKI, :
 RESPONDENT. :

Pamela A. Haack, being first duly sworn on oath deposes and states that she is in the employ of the Department of Regulation and Licensing, and that on December 18, 1998, she served the following upon the respondent:

Final Decision and Order dated December 16, 1998, LS9812163NHA

by mailing a true and accurate copy of the above-described document, which is attached hereto, by certified mail, with a return receipt requested in an envelope properly addressed to the above-named respondent at:

2620 East 4th Street
Superior, WI 54880
Certified Z 233 821 150

an address that appears in the files and records of the Nursing Home Administrator Examining Board as the respondent's last known address.

Pamela A. Haack

Pamela A. Haack
Department of Regulation and Licensing

Subscribed and sworn to before me

this 21st day of December, 1998.

Deanna Zychowski

Notary Public
Dane County, Wisconsin
My Commission is ~~Permanent~~ expires 8-27-2000

NOTICE OF RIGHTS OF APPEAL

TO: Thomas Wondolkowski

You have been issued an Order. For purposes of service the date of mailing of this Order is 12/18/98. 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:

NURSING HOME ADMINISTRATOR EXAMINING BOARD

1400 East Washington Avenue
P.O. Box 8935
Madison WI 53708-8935