

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE NURSING HOME ADMINISTRATOR  
EXAMINING BOARD

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
LUTHER A. STAVE, N.H.A.,	:	LS0708092NHA
RESPONDENT.	:	

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Division of Enforcement Case # 04 NHA 009

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Luther A. Stave, N.H.A.  
Luther A. Stave, NHA  
501 Sundial  
Alamogordo, NM 88310

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Nursing Home Administrator Examining Board  
Department of Regulation & Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

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 Nursing Home Administrator Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Luther A. Stave, N.H.A., (DOB 06/12/1962) was formerly licensed as a Nursing Home Administrator in the state of Wisconsin (license # 65-3150). This license was first granted on April 4, 2001 and expired on June 30, 2006. Pursuant to Wis. Stat. § 440.08(3), Respondent has a right to renew his license upon payment of fees until June 30, 2011.
2. Respondent's most recent address on file with the Wisconsin Nursing Home Administrator Examining Board is 27461 Stonegate Road, Webster, Wisconsin, 54893. Upon information and belief, his actual address is 501 Sundial, Alamogordo, NM 88310.

3. At all relevant times, Respondent was the nursing home administrator at Capeside Cove Nursing Home in Siren, Wisconsin.

4. On or about November 23, 2003, resident E.R., an eighty-four year old woman with dementia and a hip fracture, was sexually assaulted by her brother-in-law, a non-resident visitor. A certified nursing assistant went into E.R.'s room where the privacy curtain was partially pulled around the bed. She heard E.R. call out, "You dirty devil, get out of here!" The C.N.A. saw E.R.'s brother-in-law standing over her bed. E.R.'s dress was pulled up and the brother-in-law had both of his hands between her legs. The brother-in-law rushed out of the room. When the C.N.A. asked E.R. what happened, she said "He was messing with me." When asked what she meant, she said, "you know, he was messing with me down there."

5. Respondent was made aware of the alleged sexual abuse of E.R. on the morning of November 24, 2003. The offender was interviewed and he admitted to inserting his fingers into E.R.'s vagina. Despite this admission, Respondent determined that the offending non-resident visitor would continue to be permitted into the facility, but would not be permitted to be alone with E.R. However, he was unclear as to how his staff would communicate or implement the policy that the offender not be alone with E.R.

6. Respondent reported the incident to a County Social Worker. The County Social Worker told him he should call the police. Respondent made a statement to a County Social Worker that, due to the offender's age and the fact that he was from a well-known family in the community, the incident should be dealt with differently.

7. Only after the County Social Worker directed them to take action, the facility obtained a restraining order and barred the offender from visiting the facility.

8. Respondent informed the family's pastor of the incident without obtaining a release of information.

### CONCLUSIONS OF LAW

1. The Wisconsin Nursing Home Administrator's Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 456.10, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. The conduct described in paragraphs 3-8 above constitutes a violation of Wisconsin Administrative Code § NHA 5.02(2) and subjects Respondent to discipline pursuant to Wis. Stat. §§ 456.10(1)(b) and (bm).

### ORDER

#### IT IS ORDERED:

1. In the event that Respondent Luther A. Stave reapplies for licensure in Wisconsin, he will be issued a LIMITED license under the following terms:

- (a) Respondent, at his own expense, shall complete three (3) hours of pre-approved continuing education in responding to allegations of sexual abuse of patients, within 180 days of the date of this Order. Respondent is responsible for finding an appropriate course and submitting the course information to the Board for approval prior to taking the course and in sufficient time to obtain board approval within the 180 day time frame, taking into account the board's meeting schedule.
- (b) Upon satisfactory completion of the above-described continuing education, Respondent may petition the board to return to full licensure.

2. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of Eight Hundred Fifty Dollars (\$850.00). Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935  
Telephone (608) 267-3817  
Fax (608) 266-2264

3. In the event Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, the Respondent's license (#65-3150) SHALL NOT BE RENEWED, without further notice or hearing, until Respondent has complied with the terms of this Order.

4. This Order is effective on the date of its signing.

Wisconsin Nursing Home Administrator Examining Board:

By: David M. Egan  
A Member of the Board

8/9/07  
Date

STATE OF WISCONSIN  
BEFORE THE NURSING HOME ADMINISTRATOR  
EXAMINING BOARD

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
LUTHER A. STAVE, N.H.A.,	:	LS# _____
RESPONDENT.	:	

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Division of Enforcement Case # 04 NHA 009

Luther A. Stave, N.H.A., personally on his own behalf; and Jeanette Lytle, Attorney for the Department of Regulation and Licensing, Division of Enforcement, stipulate:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (case # 04 NHA 009). Respondent consents to the resolution of this investigation by stipulation.
2. Respondent understands that by signing 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, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has been provided an opportunity to obtain the advice of legal counsel prior to signing this stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Nursing Home Administrator 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 consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Nursing Home Administrator Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
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 accordance with standard Department procedure.
8. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order would constitute an agency finding within the meaning of Wis. Stats. §§ 48.685 and 50.065. Should Respondent wish to work in a Wisconsin DHFS-licensed facility, he will need to pass a Rehabilitation Review through DHFS prior to

commencement of such employment.

9. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

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Luther A. Stave, N.H.A.  
501 Sundial  
Alamogordo, NM 88310

\_\_\_\_\_  
Date

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Jeanette Lytle, Attorney  
Division of Enforcement  
Wisconsin Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

\_\_\_\_\_  
Date