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Before The
State Of Wisconsin
BOARD OF NURSING

In the Matter of the Disciplinary Proceedings Against
CYNTHIA M. TROTTER, R.N., Respondent

FINAL DECISION AND ORDER
Case No. LS 0910021 NUR

[Division of Enforcement Case # 08 NUR 174]

The State of Wisconsin, Board of Nursing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on 12/3/09

Marilyn Kaufmann
Member
Board of Nursing



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Disciplinary Proceedings Against
CYNTHIA M. TROTTER, R.N., Respondent

PROPOSED DECISION AND ORDER
Case No. LS 0910021 NUR

[Division of Enforcement Case # 08 NUR 174]

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

Cynthia M. Trotter
3650 West 86th Street
Indianapolis , IN 46268

Board of Nursing
P. O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing (Department)
Division of Enforcement
P. O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The *Complaint* in this matter was filed on October 2, 2009. On the same date, the *Complaint* and *Notice of Hearing* were sent to the respondent at her address of record with the Wisconsin Department of Regulation and Licensing ["DRL"]: 3650 W. 86TH Street; Indianapolis, IN 46268. The Notice of Hearing stated that Respondent was required to file an Answer to the Complaint within 20 days, failing which "you will be found to be in default and a default judgment may be entered against you on the basis of the Complaint and other evidence and the Wisconsin Medical Examining Board [sic] may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing."

DRL served the Respondent with the *Complaint* and *Notice of Hearing* by both certified U.S. Mail and regular first class U.S. Mail using Respondent's address of record with DRL. The *Complaint* and *Notice of Hearing* were returned to DRL by the U.S. Postal Serviced marked: "Return to Sender; Not Deliverable as Addressed; Unable to Forward; Return to Sender."

Respondent never filed an Answer or otherwise responded to DRL's *Complaint* and *Notice of Hearing*. Accordingly, On November 2, 2009 the Division of Hearings and Appeals ["DHA"] issued a *Default Finding and Order* stating, in part, that "the Respondent in this matter is in DEFAULT and findings will be made and an Order entered on the basis of the Complaint and other evidence."

On November 4, 2009, DRL mailed to Respondent by regular U.S. Mail at her DRL address of record a *Motion for Discipline and Costs*.

FINDINGS OF FACT

1. Cynthia M. Trotter, R.N., Respondent, age 46 years, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 144986, which was first granted August 11, 2003.
2. Respondent's address of record reported to the Wisconsin Department of Regulation and Licensing ["DRL"] is 3650 W. 86th Street, Indianapolis, IN 46268.
3. On May 19, 2008, while employed as a travel nurse and assigned to Southwest General Hospital in San Antonio, respondent was arrested while off duty. Police found her with morphine, meperidine and novalog insulin in her possession. Respondent did not have permission to take the medications from her work site, nor did she have prescriptions for the medications.

4. On August 18, 2009, the Texas Board of Nursing revoked Respondent's Multi-State Licensure Compact Privilege because she misappropriated morphine, meperidine and novalog insulin from her work site.

5. The Texas Board of Nursing found that proper and timely notice had been given to Respondent at 3650 W. 86th Street, Indianapolis, IN 46268. Respondent failed to file an Answer and did not appear. Consequently, the default order was entered. Respondent is presently licensed to practice nursing in Indiana.

6. On February 27, 2005, in Milwaukee County Circuit Court, Case No. 2005CM778, Respondent was charged with disorderly conduct and possession of drug paraphernalia. The court ordered Respondent to undergo drug treatment in Indiana where Respondent was then living. Ultimately Respondent was convicted of one count of disorderly conduct in violation of Wis. Stat. sec. 947.01, with one count of possession of drug paraphernalia dismissed but read-in. Respondent's address last reported to the court was reported on May 2, 2007, as 4817 Cross Creek Lane, Apt. C., Indianapolis, IN, 46254-4712.

7. On August 27, 2009, a representative of Advanced Temporaries, Inc., San Antonio, Texas, contacted the DRL to verify Respondent's Wisconsin licensure. The representative gave Respondent's reported address as 2108 Medical Drive, San Antonio, TX, 78242. A DRL employee confirmed that the address is non-existent.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to Wis. Stat. § 441.07(1) (2007-08).

2. Respondent, by revocation of her license to practice in Texas, has been the subject of disciplinary action through final board adjudication taken against her license in another jurisdiction, which is misconduct and unprofessional conduct as defined by Wis. Admin. Code § N 7.04(7) (June 2006) and she is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d) (2007-08).

3. Respondent, by obtaining a drug other than in the course of legitimate practice and as otherwise prohibited by law, as set out in the above Findings of Fact, has committed misconduct and unprofessional conduct as defined by Wis. Admin. Code § N 7.04(2) (June 2006) and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d) (2007-08).

DISCUSSION

As set out in the above Conclusions of Law, the revocation of Respondent's license in Texas constitutes unprofessional conduct under Wisconsin law. Additionally, as also set out in the above Conclusions of Law, by obtaining a drug other than in the course of legitimate practice and as otherwise prohibited by law Respondent has committed misconduct and unprofessional conduct under Wisconsin law.

The seriousness of Respondent's drug-related violations coupled with the fact that her Texas license has been revoked warrant that her Wisconsin license also be revoked. The revocation of Respondent's Wisconsin license is necessary to protect the public. See, *Gilbert v. Medical Examining Board*, 119 Wis. 2d 168, 188, 349 N.W.2d 68 (1984). Licensing statutes are enacted not for the benefit of the individuals licensed, but for the benefit and protection of the public. *Noesen v. Pharmacy Examining Board*, 2008 WI App 52, ¶ 15, 311 Wis. 2d 237, 248, 751 N.W.2d 385 [*citing*, *Strigenz v. Dentistry Examining Board*, 103 Wis. 2d 281, 287, 307 N.W.2d 664 (1981)], review denied by, *Noesen v. Pharmacy Examining Board*, 2008 WI App 115, 310 Wis. 2d 706, 754 N.W.2d 849.

Under section 440.22 of the Wisconsin Statutes and section RL 2.18 of the Wisconsin Administrative Code when discipline is imposed on a credential-holder all or part of the costs of the disciplinary proceeding may also be imposed on the credential-holder. In this case, the misconduct is very serious and included Respondent's theft of narcotics. Respondent's misconduct resulted in both the revocation for her Texas license and the revocation of her Wisconsin license. In addition, the costs of these default proceedings are necessary only because petitioner apparently failed to keep her DRL address of record

current. If Respondent had kept her DRL address of record current and responded to these proceedings than full consideration could have been given to the evidence, if any, offered by Respondent. For all of these reasons, this decision concurs in DRL's recommendation that Respondent be assessed the full amount of recoverable costs. The amount of costs will be determined pursuant to section RL 2.18 of the Wisconsin Administrative Code.

ORDER

For the reasons set forth above, IT IS ORDERED that the license of Respondent to practice nursing in the State of Wisconsin be and is hereby **REVOKED**.

IT IS FURTHER ORDERED that Respondent shall pay all recoverable costs in this matter, in an amount to be established pursuant to law. After the amount is established payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing ["DRL"] and sent to:

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

IT IS FURTHER ORDERED that this file be and hereby is closed as to Respondent.

Dated at Madison, Wisconsin on November 11, 2009.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Telephone: (608) 266-7709
FAX: (608) 264-9885

BY: _____
Sean P. Maloney
Administrative Law Judge