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Before The
State Of Wisconsin
Board of Nursing

In the Matter of the Disciplinary Proceedings
Against **LINDA A. REDDISH, R.N.**, Respondent

**FINAL DECISION AND ORDER
WITH VARIANCE**

ORDER NO. ~~ORDER 0002372~~

Division of Legal Services and Compliance¹ Case No. 11 NUR 289

The parties to this proceeding for purposes of Wis. Stat §§ 227.47(1) and 227.53 are:

Linda A. Reddish, R.N., by:

Attorney Carol Dittmar
Carol Dittmar Law Office, LLC
24 W. Cedar St.
Chippewa Falls, WI 54729

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

Department of Safety and Professional Services, Division of Legal Services and
Compliance, by

Attorney Colleen Baird
Department of Safety and Professional Services
Division of Legal Services and Compliance
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Madison, WI 53708-8935

PROCEDURAL HISTORY

These proceedings were initiated when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), served a formal Complaint on September 9, 2011, against Respondent Linda A. Reddish. The Complaint alleged

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

that Ms. Reddish engaged in misconduct or unprofessional conduct as defined by Wis. Stat. § 441.07(1)(d) and Wis. Admin. Code § N 7.04(7) by having a disciplinary action through final board adjudication taken against her license in another jurisdiction, and that she engaged in conduct which reflects an impaired ability to safely and reliably perform duties, which constitutes mental incompetency pursuant to Wis. Stat. § 441.07(1)(c) and Wis. Admin. Code § N 7.03(3). Several prehearing and status conferences were held before the Division of Hearings and Appeals' Administrative Law Judge (ALJ) , at which the parties represented that they were engaging in possible settlement negotiations and that they were awaiting a third party assessment to be conducted on Ms. Reddish by Psychologist Dr. John Hamann. At a final status conference held on April 23, 2012, the parties indicated that the matter had not resolved, and the Division's attorney represented that she wished to file a motion for summary judgment.

Following briefing on the Division's motion for summary judgment, the ALJ issued an Order Granting Partial Summary Judgment on September 6, 2012. The Order granted summary judgment to the Division on the issue of whether Ms. Reddish committed misconduct or unprofessional conduct in violation of Wis. Stat. § 441.07(1)(d) and Wis. Admin. Code § N 7.04(7)² but denied summary judgment with respect to the issue of discipline, concluding that the discipline recommended by the Division could not be decided in the Division's favor as a matter of law. That Order is attached to, and incorporated by reference into, this decision.

A disciplinary hearing was held on November 1, 2012, at which Ms. Reddish testified on her own behalf. At the request of the ALJ, post-hearing submissions were filed on the issue of whether the Division had agreed to be bound by the evaluation and recommendation of Dr. Hamann.

² In the summary judgment proceeding, the Division did not seek to establish mental incapacity, the other violation alleged in the Complaint, only misconduct or unprofessional conduct.

On February 14, 2013, the Board of Nursing reviewed the Proposed Decision submitted by the ALJ. Upon considering the ALJ's proposed decision and disciplinary recommendations, the Board of Nursing adopts the proposed Findings of Fact, Conclusions of Law, and determination of Costs but varies the Order as set forth below.

FINDINGS OF FACT

Undisputed Material Facts as Found in the Order Granting Partial Summary Judgment

1. Linda A. Reddish, R.N. (DOB 08/05/1946), has been licensed as a professional nurse in Wisconsin (license no. 150740-30) since 2005. She currently lives in Hudson, Wisconsin.

2. On June 30, 2011, the Minnesota Board of Nursing issued Findings of Fact, Conclusions and Final Order, in which Ms. Reddish's license to practice nursing in the State of Minnesota was immediately suspended for an indefinite period of time. According to its terms, the Order was based on the following:

a. In 2004, Ms. Reddish was terminated from employment at a correctional facility in Minnesota following an unsatisfactory job performance evaluation;

b. In 2006, Ms. Reddish administered insulin to the wrong patient. As a result, the patient was hospitalized for a week;

c. In 2007, Ms. Reddish reported to the Sheriff's Department that someone was trying to harm residents by putting substances in their food. Ms. Reddish also reported she experienced this same problem when she worked in Hawaii; facility staff had attempted to poison her and also residents;

d. In 2008, Ms. Reddish's employment from an acute care psychiatric unit was terminated for personality and performance issues;

e. On May 27, 2009, Ms. Reddish met with the Minnesota Review Panel at a disciplinary conference. The Review Panel requested that Ms. Reddish undergo a mental health evaluation;

f. On May 29, 2009, a vulnerable adult living at a group home was hospitalized for a bowel obstruction. He later had surgery to remove a sponge that he had ingested. On July 17, 2009, Ms. Reddish reported to the police department that the vulnerable adult had accidentally ingested or possibly had been forced to ingest “spongettes” used to brush his teeth. Because the adult was unable to use his hands, Ms. Reddish believed it likely that someone had forced sponges down his throat, but she did not know who had done it;

g. On November 19, 2009, Ms. Reddish met with a psychiatrist for the mental health evaluation requested by the Review Panel. During the evaluation, Ms. Reddish acknowledged that she sometimes heard voices with whom she communicated mentally. Ms. Reddish affirmed that (1) Ms. Reddish had been deliberately poisoned while working at a nursing home in 1992; (2) she had reported that someone gave a patient a deliberate overdose at a facility in Menomonie, Wisconsin and she was fired because of the report; (3) she had reported to police that someone was tampering with residents’ food at a facility in Minnesota; (4) she went to the Sheriff’s Department about a facility in Minnesota because she assumed staff were “putting stuff in food and getting rid of people,” like what had occurred in Hawaii in 1992; and (5) she was fired from a group home in Minnesota after reporting that someone force-fed a sponge to a resident;

h. The psychiatrist concluded that Ms. Reddish had a psychiatric disorder involving chronic paranoid delusions and hallucinations that have significantly affected her life. He recommended the Board require Ms. Reddish to have a thorough medical examination and see a neurologist to rule out a general medical cause of psychosis. He also recommended that Ms. Reddish see a psychiatrist for assessment and treatment planning and that she not be permitted to work as a nurse until her psychotic symptoms substantially improved;

i. In February 2010, Ms. Reddish sought an independent psychiatric evaluation from another psychiatrist. Ms. Reddish told the psychiatrist that she reported the maltreatment of

patients in 2006, 2008 and 2009, and as a result, the Minnesota Board of Nursing had requested an evaluation of her. Based on the information available to him at that time, the psychiatrist concluded Ms. Reddish had no significant psychiatric condition;

j. Ms. Reddish returned to the second psychiatrist in May 2010, at which time she described to him her ability to communicate by telepathy with various individuals (the Unabomber, the leader of the Soviet Union, the leader of the Palestine Liberation Organization, and a pilot who had been shot down in Bosnia) and her regular contact regarding these matters with the former director of the Federal Bureau of Investigation (FBI) and the Central Intelligence Agency (CIA), and the current chair of the Homeland Security Advisory Commission in Washington, D.C. Ms. Reddish stated that she believed she helped save the United States with her telepathic powers. The psychiatrist offered to begin treating Ms. Reddish with antipsychotic medications, but Ms. Reddish declined; and

k. Ms. Reddish has regularly telephoned the former FBI director about four to five times per year for the last 15 years, about matters pertaining generally to national security. He described her calls as pleasant, calm, and considerate, “the kind of good citizen calls that one is not unwilling to receive.”

3. In or about May of 2011, Ms. Reddish met with Donald Dembosky, a Minnesota-licensed psychologist, twice, and completed a psychological test. Dr. Dembosky found no psychological or emotional impediments to her functioning as a nurse.

4. From January through March, 2012, Ms. Reddish voluntarily underwent a comprehensive psychological evaluation by Dr. John Hamann, a Wisconsin psychologist chosen by the Department. Dr. Hamann was aware of the above history recited in the Minnesota Order. He conducted four clinical interviews and administered numerous tests. He concluded that Ms. Reddish had no psychological issues which would interfere with her ability to carry out her

nursing responsibilities. Nonetheless, he recommended treatment for Attention Deficit Disorder with reports to the Department, and supervision of her nursing practice.

5. When asked for further clarification regarding his recommendation that Ms. Reddish be supervised, Dr. Hamann clarified in a letter dated June 21, 2012 that he recommended only “normal supervision that any nurse would be subject to in a structured work environment” and “was not suggesting or recommending any form of supervision which would take place above and beyond the normal work environment.” He further clarified that the intent of his statement in his report regarding supervision “was to avoid the lack of normal supervision which appeared to have occurred in some of the workplace environments in which [Ms.] Reddish was employed.”

ALJ’S Additional Findings of Fact Based on the Disciplinary Hearing

6. In 2009, Ms. Reddish worked through nursing registry in West St. Paul, Minnesota. In November 2006, the Review Panel asked her to respond to allegations that she had failed to obtain timely medical attention for a resident who sustained a fractured clavicle while in Ms. Reddish’s care. Ms. Reddish informed the Review Panel that the injury described to her had reportedly happened several months previously and that she had attempted to obtain medical care but was ordered to leave the premises at the end of her shift. She also described conditions in the facility as chaotic and dirty. *See Minnesota Order, attached to Affidavit of Jeanette Lytle as Exhibit (Minnesota Order), p. 3; November 1, 2012 Hearing Transcript (Hear. Trans.), p. 53.*

7. On the same day that she responded to the Review Panel with regard to the incident in West St. Paul, Minnesota, Ms. Reddish telephoned the Minnesota Department of Health regarding a facility in North Branch, Minnesota, where Ms. Reddish had also been working through a staffing agency. Ms. Reddish complained that a trained medication assistant (TMA) had given two residents something that made them sick and required them to be hospitalized. Ms. Reddish reported that the TMA “must be on cocaine” and should have a drug screen. When

asked by the Minnesota Department of Health why she believed the TMA was using cocaine, Ms. Reddish said that the TMA had smiled and said something about Ms. Reddish holding a can of Coke. The TMA, who was a long-term employee in good standing at the facility, was suspended during an investigation by the police and the Department of Health. The facility investigation disclosed that the two residents were in legitimate need of medical attention for flu-like symptoms, not because they had ingested any drug. The facility requested that the staffing agency not send Ms. Reddish to work there in the future. *See Minnesota Order, pp. 3-4; Hear. Trans., pp. 87-93.*

8. When the Review Panel subsequently asked Ms. Reddish to explain why she had called authorities about the facility in North Branch, Minnesota, Ms. Reddish stated that she had observed a “visiting” TMA feed a patient in the early morning hours, after which the patient began to vomit. She also stated she had sent four to five residents to the emergency room that weekend for various problems that “should have been taken care of” before. She said she called authorities because there were “[t]oo many patients sick and [going] to the ER[,] along with the incident with the client vomiting and eating food [fed] to her by a visiting TMA.” Ms. Reddish said that she doubted very much that she would have ever used the word “cocaine,” because there would not have been any reason to think of cocaine and the residents were sick with medical problems due to poor care. *See Minnesota Order, p. 4; Hear. Trans., pp. 87-93.*

9. During the hearing on discipline, Ms. Reddish repeatedly denied being terminated from employment situations for performance issues, despite being confronted with the Minnesota Board’s conclusions to the contrary, although her testimony was often contradictory, equivocal and not credible. *See e.g., Hear. Trans., pp. 41-4, 68-70.*

CONCLUSIONS OF LAW

Wisconsin Stat. § 441.07(1)(d) allows the Wisconsin Board of Nursing (Board) to discipline licensees for misconduct or unprofessional conduct. Wisconsin Admin. Code § N 7.04(7) defines misconduct or unprofessional conduct to include “[h]aving disciplinary action through final board adjudication taken against one’s license in another jurisdiction.” In the Order Granting Partial Summary Judgment, attached to and incorporated into this decision, the ALJ concluded that the undisputed material facts establish that there was such an adjudication, and that the Division therefore met its burden of establishing that Ms. Reddish committed misconduct or unprofessional conduct in violation of Wis. Stat. § 441.07(1)(d) and Wis. Admin. § N 7.04(7).

ALJ’s DISCUSSION

The three purposes of discipline are: (1) to promote the rehabilitation of the licensee; (2) to protect the public from other instances of misconduct; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976).

The Division requests that restrictions be placed on Ms. Reddish’s nursing license and on her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact. The Division requests that after two years from the date of the Final Decision and Order, Ms. Reddish be permitted to petition the Board for the modification or termination of the limitations and that the Board be permitted to grant or deny the petition, in its discretion, or modify the Order as it sees fit.

Counsel for Ms. Reddish asserts that there is no need for any supervision of Ms. Reddish’s practice as two different psychologists, including the psychologist recommended by the Department, Dr. Hamann, concluded in 2011 and 2012 that Ms. Reddish did not require any non-routine supervision and that there were no psychological or emotional impairments to Ms. Reddish practicing as a nurse. In her closing argument, counsel also argued that the Division’s recommended discipline ignores Dr. Hamann’s report and that the Division should not second-

guess Dr. Hamann's report because, unlike Dr. Hamann, the Division is not a licensed psychologist. She further stated that there was no proof in the Minnesota record that Ms. Reddish endangered patients, and that she was never disciplined for endangering patients or for inappropriate care.

Based on the factors articulated in *Aldrich* and the facts of this case, the ALJ concluded that the discipline recommended by the Division best serves the protection of the public and the interests of rehabilitation and deterrence. While it is true that two psychologists concluded in 2011 and 2012 that Ms. Reddish did not have any psychological or mental impairments that would inhibit her nursing practice, the ALJ agreed with the Division that a determination on discipline should include a broader perspective and a wider time frame, including consideration of the events found by the Minnesota Board which occurred as recently as 2004 - 2010. The ALJ noted that the findings of the Minnesota Board were made following a hearing at which Ms. Reddish was represented by counsel and that, although Ms. Reddish made some attempts to dispute these findings at the disciplinary hearing in this case, the Minnesota Board's findings were not relitigated in this proceeding and are facts accepted as true for purposes of the summary judgment proceedings and this decision.

The events described in the Minnesota Board's decision demonstrate grave concern for the safety of the public which Ms. Reddish serves and cannot be ignored in this proceeding, particularly given how recently the events occurred and that Ms. Reddish's testimony during the disciplinary proceeding did not undermine these findings in any respect. The Minnesota Board found that two different psychiatrists concluded in 2009 and 2010 that Ms. Reddish had serious mental health issues, including chronic paranoid delusions, hallucinations and psychosis. As recently as May of 2010, Ms. Reddish informed one of the psychiatrists of her ability to communicate by telepathy with various individuals such as the Unabomber, the leader of the Soviet Union, the leader of the Palestine Liberation Organization, and a pilot who had been shot

down in Bosnia; had further informed the psychiatrist of her regular contact regarding these matters with the former director of the FBI and the CIA, and the current chair of the Homeland Security Advisory Commission in Washington, D.C; and also informed the psychiatrist of her belief that she helped save the United States with her telepathic powers. The psychiatrist offered to begin treating Ms. Reddish with antipsychotic medications, but Ms. Reddish declined.

Moreover, the ALJ disagreed with Ms. Reddish's counsel that there is no indication in the Minnesota record that Ms. Reddish endangered patients. The Minnesota Board found that in 2006, Ms. Reddish administered insulin to the wrong patient. As a result, the patient was hospitalized for a week. In addition, the Minnesota findings referred to a 2006 incident in West St. Paul, Minnesota where Ms. Reddish had allegedly failed to obtain timely medical attention for a resident who sustained a fractured clavicle while in Ms. Reddish's care and that Ms. Reddish indicated that she had attempted to obtain medical care but was ordered to leave the premises at the end of her shift. While counsel is correct that the Minnesota Order states that the Minnesota Review Panel took no disciplinary action against Ms. Reddish based on these incidents, this does not equate to there being no indication in the Minnesota record regarding Ms. Reddish endangering patients. It is notable that the Minnesota Board immediately suspended Ms. Reddish's license for an indefinite period of time, presumably based on all of its findings of fact, and that the Minnesota Order discussed at length Ms. Reddish's history of being terminated for poor performance. Moreover, Ms. Reddish's fairly recent hallucinatory behavior (telepathy, etc.), and her repeated and unfounded (based on this record) allegations to law enforcement against numerous health care employees and facilities also constitute conduct that could have a negative impact on the safety and well-being of patients.

COSTS

The Division argues that Ms. Reddish should be required to pay the full costs of the investigation and disciplinary proceedings in this matter.

Factors to consider in imposing costs include: (1) the number of counts charged, contested and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the Division; (4) the cooperation of the respondent; (5) any prior discipline; and (6) the fact that the Department is a program revenue agency, funded by other licensees, and the fairness of imposing the costs of disciplining a few members of the profession on the vast majority of the licensees who have not engaged in misconduct. *See In the Matter of Disciplinary Proceedings against Elizabeth Buenzli-Fritz* (LS 0802183 CHI).

In the instant case, although one count was proven, it was serious in nature, based on a disciplinary action from a neighboring state in which the Minnesota Board indefinitely suspended Ms. Reddish's license. In Ms. Reddish's favor, the record reflects that she has been highly cooperative in this proceeding, appearing at several telephone conferences, working with the Division to attempt to resolve the matter, and obtaining an evaluation at the request of the Department, for which, according to her undisputed testimony, she was required to pay \$3,000. Based on the foregoing, the ALJ concluded that imposition of 80 percent of the costs of this proceeding is appropriate.

EXPLANATION OF VARIANCE

As the regulatory authority and final decision-maker in this Class 2 proceeding, the Board of Nursing may modify the ALJ's proposed decision. *See* Wis. Stat. § 227.46(2). The Board must provide reasons for any such modifications. *Id.* Here, the Board adopts as its own the findings of fact, conclusions of law and discussion of the ALJ as incorporated herein. The Board also adopts the ALJ's determination of costs. However, the Board modifies the ALJ's recommendations with respect to the issue of discipline.

The discipline in this case is based on a June 30, 2011 disciplinary action taken against Respondent by the Minnesota Board of Nursing that included an indefinite suspension of her license in that state. The proposed Wisconsin Board of Nursing Order imposed various

limitations on the Respondent's license which allowed her to continue to practice nursing in this State. The Wisconsin Board does not believe these limitations adequately address the purposes of discipline, which include: protection of the public, rehabilitation of the licensee, and deterrence of this and other licensees. The Board finds that an indefinite suspension of Respondent's Wisconsin nursing license is warranted for consistency with the Minnesota Board's Order since that Board initially evaluated the underlying matter and determined the appropriate discipline to be an indefinite suspension. Further, the Wisconsin Board determines that it is necessary to impose conditions demonstrating fitness to practice upon any petition for lifting of the suspension to ensure that Respondent can competently practice nursing in the state of Wisconsin.

ORDER

Accordingly, IT IS ORDERED that the nursing license of Respondent Linda A. Reddish, no. 150740-30, be, and is hereby, SUSPENDED INDEFINITELY.

IT IS FURTHER ORDERED that the privilege of Linda A. Reddish, R.N., to practice nursing in the state of Wisconsin pursuant to the Nurse Licensure Compact is SUSPENDED INDEFINITELY.

IT IS FURTHER ORDERED that prior to petitioning the Board for removal of the suspension, Respondent shall satisfy the following requirements:

1. Respondent shall have a full psychiatric evaluation, as well as a full fitness to practice evaluation, from both a Board-approved psychiatrist and a Board-approved forensic psychologist.
2. Respondent shall provide the Board with documentation establishing that she has an unencumbered nursing license in Minnesota.

IT IS FURTHER ORDERED that the Board may request an appearance by Respondent, depending on the results of the psychiatric and fitness evaluations.

IT IS FURTHER ORDERED THAT Ms. Reddish shall pay 80 percent of the costs of the investigation and prosecution in this matter in an amount to be established pursuant to Wis.

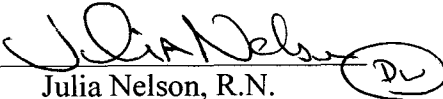
Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to:

**Department Monitor
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 8935
Madison, WI 53708-8935**

IT IS FURTHER ORDERED that this Order is effective on the date signed below.

Dated at Madison, Wisconsin on this 1st day of April, 2013.

Wisconsin Board of Nursing

By: 
Julia Nelson, R.N.
Chair of the Board of Nursing



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Disciplinary Proceedings
Against **LINDA A. REDDISH, R.N.**, Respondent

ORDER GRANTING PARTIAL
SUMMARY JUDGMENT
DHA Case No. SPS-11-0087

Division of Enforcement Case No. 11 NUR 289

The parties to this proceeding for purposes of Wis. Stat §§ 227.47(1) and 227.53 are:

Linda A. Reddish, R.N., by:

Attorney Carol Dittmar
Carol Dittmar Law Office, LLC
24 W. Cedar St.
Chippewa Falls, WI 54729

Department of Safety and Professional Services, Division of Enforcement, by

Attorney Jeanette Lytle
Department of Safety and Professional Services
Division of Enforcement
P. O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

These proceedings were initiated when the Department of Safety and Professional Services (Department), Division of Enforcement (Division), served a formal Complaint on or about September 9, 2011, against Respondent Linda A. Reddish. The Complaint alleged that Ms. Reddish engaged in misconduct or unprofessional conduct as defined by Wis. Stat. § 441.07(1)(d) and Wis. Admin. Code § N 7.04(7) by having a disciplinary action through final board adjudication taken against her license in another jurisdiction, and that she engaged in conduct which reflects an impaired ability to safely and reliably perform duties, which

constitutes mental incompetency pursuant to Wis. Stat. § 441.07(1)(c) and Wis. Admin. Code § N 7.03(3).¹ Ms. Reddish filed an Answer on September 27, 2011. A prehearing conference was first held in this matter on October 28, 2011, and several subsequent status conferences were held, with the parties representing that they were engaging in possible settlement negotiations and that they were awaiting a third party assessment to be conducted on Ms. Reddish by Psychologist Dr. John Hamann.

Pursuant to discussions held at a status conference convened on April 10, 2012, a Notice of Hearing and Status Conference was issued, scheduling a hearing on the matter for May 23, 2012 unless the parties informed the administrative law judge (ALJ) at a status conference scheduled for April 23, 2012 that the case had settled. At the final status conference held on April 23, 2012, the parties indicated that the matter had not resolved and the Division's attorney represented that she wished to file a motion for summary judgment. A briefing schedule was ordered and the last submission was received on July 13, 2012.

UNDISPUTED MATERIAL FACTS

1. Linda A. Reddish, R.N. (DOB 08/05/1946), has been licensed as a professional nurse in Wisconsin (license no. 150740-30) since 2005. *Complaint* ¶ 1; *Answer* ¶ 1. She currently lives in Hudson, Wisconsin. *Complaint*, ¶ 2; *Answer*, ¶ 2.

2. On June 30, 2011, the Minnesota Board of Nursing issued Findings of Fact, Conclusions and Final Order (Order), in which Ms. Reddish's license to practice nursing in the State of Minnesota was immediately suspended for an indefinite period of time. *Complaint*, ¶ , *Answer*, ¶ 3. According to its terms, the Order was based on the following:

- a. In 2004, Ms. Reddish was terminated from employment at a correctional facility in Minnesota following an unsatisfactory job performance evaluation;
- b. In 2006, Ms. Reddish administered insulin to the wrong patient. As a result, the patient was hospitalized for a week;

¹ The Division does not seek to establish mental incapacity in this summary judgment proceeding, only misconduct or unprofessional conduct.

- c. In 2007, Ms. Reddish reported to the Sheriff's Department that someone was trying to harm residents by putting substances in their food. Ms. Reddish also reported she experienced this same problem when she worked in Hawaii; facility staff had attempted to poison her and also residents;
- d. In 2008, Ms. Reddish's employment from an acute care psychiatric unit was terminated for personality and performance issues;
- e. On May 27 2009, Ms. Reddish met with the Minnesota Review Panel at a disciplinary conference. The Review Panel requested that Ms. Reddish undergo a mental health evaluation;
- f. On May 29, 2009, a vulnerable adult living at a group home was hospitalized for a bowel obstruction. He later had surgery to remove a sponge that he had ingested. On July 17, 2009, Ms. Reddish reported to the police department that the vulnerable adult had accidentally ingested or possibly had been forced to ingest "spongettes" used to brush his teeth. Because the adult was unable to use his hands, Ms. Reddish believed it likely that someone had forced sponges down his throat, but she did not know who had done it;
- g. On November 19, 2009, Ms. Reddish met with a psychiatrist for the mental health evaluation requested by the Review Panel. During the evaluation, Ms. Reddish acknowledged that she sometimes heard voices with whom she communicated mentally. Ms. Reddish affirmed that (1) Ms. Reddish had been deliberately poisoned while working at a nursing home in 1992; (2) she had reported that someone gave a patient a deliberate overdose at a facility in Menomonie, Wisconsin and she was fired because of the report; (3) she had reported to police that someone was tampering with residents' food at a facility in Minnesota; (4) she went to the Sheriff's Department about a facility in Minnesota because she assumed staff were "putting stuff in food and getting rid of people," like what had occurred in Hawaii in 1992; and (5) she was fired from a group home in Minnesota after reporting that someone had to have force-fed a sponge to a resident;
- h. The psychiatrist concluded that Ms. Reddish had a psychiatric disorder involving chronic paranoid delusions and hallucinations that have significantly affected her life. He recommended the Board require Ms. Reddish to have a thorough medical examination and see a neurologist to rule out a general medical cause of psychosis. He also recommended that Ms. Reddish see a psychiatrist for assessment and treatment planning and that she not be permitted to work as a nurse until her psychotic symptoms substantially improved;
- i. In February 2010, Ms. Reddish sought an independent psychiatric evaluation from another psychiatrist. Ms. Reddish reported the maltreatment of patients in 2006, 2008 and 2009, and that as a result, the Minnesota Board of Nursing had requested an evaluation of her. Based on the information available to him at that time, the psychiatrist concluded Ms. Reddish had no significant psychiatric condition;
- j. Ms. Reddish returned to the second psychiatrist in May 2010, at which time she described to him her ability to communicate by telepathy with various individuals (the Unabomber, the leader of the Soviet Union, the

leader of the Palestine Liberation Organization, and a pilot who had been shot down in Bosnia) and her regular contact regarding these matters with the former director of the Federal Bureau of Investigation (FBI) and the Central Intelligence Agency (CIA), and the current chair of the Homeland Security Advisory Commission in Washington, D.C. Ms. Reddish stated that she believed she helped save the United States with her telepathic powers. The psychiatrist offered to begin treating Ms. Reddish with antipsychotic medications, but Ms. Reddish declined; and

- k. Ms. Reddish has regularly telephoned the former FBI director about four to five times per year for the last 15 years, about matters pertaining generally to national security. He described her calls as pleasant, calm, and considerate; "the kind of good citizen calls that one is not unwilling to receive."

See Order, attached to Affidavit of Jeanette Lytle as Exhibit A.

3. In or about May of 2011, Ms. Reddish met with Donald Dembosky, a Minnesota-licensed psychologist, twice, and completed a psychological test. Dr. Dembosky found no psychological or emotional impediments to her functioning as a nurse. *Answer ¶ 6; Dembosky assessment, attached to Affidavit of Jeanette Lytle as Exhibit B.*

4. From January through March, 2012, Ms. Reddish voluntarily underwent a comprehensive psychological evaluation by Dr. John Hamann, a Wisconsin psychologist chosen by the Department. Dr. Hamann was aware of the above history recited in the Minnesota Order. He conducted four clinical interviews and administered numerous tests. He concluded that Ms. Reddish had no psychological issues which would interfere with her ability to carry out her nursing responsibilities. Nonetheless, he recommended treatment for Attention Deficit Disorder with reports to the Department, and supervision of her nursing practice. *See Hamann assessment, attached to Affidavit of Jeanette Lytle as Exhibit C.*

5. When asked for further clarification regarding his recommendation that Ms. Reddish be supervised, Dr. Hamann clarified in a letter dated June 21, 2012 that he recommended only "normal supervision that any nurse would be subject to in a structured work environment" and "was not suggesting or recommending any form of supervision which would take place above and beyond the normal work environment." *See Hamann letter, attached to Affidavit of Carol S.*

Dittmar as Exhibit B. He further clarified that the intent of his statement in his report regarding supervision “was to avoid the lack of normal supervision which appeared to have occurred in some of the workplace environments in which [Ms.] Reddish was employed.” *Id.*

DISCUSSION AND CONCLUSIONS OF LAW

I. Standards Governing Summary Judgment

“The summary judgment procedure as provided in s. 802.08, Stats., shall be available to the parties upon approval by the division or the administrative law judge.” Wis. Admin. Code § HA 1.10(2).

Pursuant to Wis. Stat. § 802.08, summary judgment “shall be rendered if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Wis. Stat. § 802.08(2). “When a motion for summary judgment is made and supported as provided in this section [§ 802.08], an adverse party may not rest upon the mere allegations or denials of the pleadings but the adverse party's response, by affidavits or as otherwise provided in this section, must set forth specific facts showing that there is a genuine issue for trial.” Wis. Stat. § 802.08(3). “If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against such party.” *Id.*

“A motion for summary judgment may be made on the basis of the pleadings or other portions of the record in the case or it may be supported by affidavits and a variety of outside material.” *Tews v. NHI, LLC*, 2010 WI 137, ¶ 49, 330 Wis. 2d 389, 793 N.W.2d 860 (citation omitted). On a motion for summary judgment, the facts are construed in favor of the non-moving party. *DeHart v. Wis. Mut. Ins. Co.*, 2007 WI 91, ¶ 7, 302 Wis. 2d 564, 734 N.W.2d 394.

II. Burden of Proof

The burden of proof in disciplinary proceedings is on the Division to show by a preponderance of the evidence that the events constituting the alleged violations occurred. Wis. Stat. § 440.20(3). To prove by a preponderance of the evidence means that it is “more likely than not” that the examined action occurred. See *State v. Rodriguez*, 2007 WI App. 252, ¶ 18, 306 Wis. 2d. 129, 743 N.W.2d 460, citing *United States v. Saulter*, 60 F.3d 270, 280 (7th Cir. 1995).

III. Violations of the Wisconsin Statutes and Administrative Code

Wisconsin Stat. § 441.07(1)(d) allows the Wisconsin Board of Nursing (Board) to discipline licensees for misconduct or unprofessional conduct. Wisconsin Admin. Code § N 7.04(7) defines misconduct or unprofessional conduct to include “[h]aving disciplinary action through final board adjudication taken against one’s license in another jurisdiction.” Although Ms. Reddish disputes the allegations giving rise to the suspension in Minnesota, she does not dispute that there was a disciplinary action through final board adjudication taken against her license in Minnesota. The undisputed material facts establish that there was such an adjudication, which is the only question relevant to the issue of whether Ms. Reddish violated Wis. Stat. § 441.07(1)(d) and Wis. Admin. Code § N 7.04(7). Therefore, summary judgment in favor of the Division is warranted on this issue, and the Division has met its burden of establishing that Ms. Reddish committed misconduct or unprofessional conduct in violation of Wis. Stat. § 441.07(1)(d) and Wis. Admin. § N 7.04(7).

IV. Discipline

The Division also requests summary judgment in its favor on the issue of discipline. Specifically, the Division suggests that the undisputed material facts establish that Ms. Reddish’s nursing license (and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact) should be limited as follows:

Practice Restrictions

- a. Ms. Reddish shall practice only in a work setting pre-approved by the Board or its designee. Ms. Reddish may not work in a home health care, hospice, pool nursing or agency setting.
- b. Ms. Reddish shall provide a copy of this Final Decision and Order immediately to supervisory personnel at all settings where Ms. Reddish works as a nurse or caregiver or provides health care, during the two-year period.
- c. Ms. Reddish shall practice only under the direct supervision of a licensed nurse or other licensed health care professional approved by the Board or its designee.
- d. Ms. Reddish's supervisor(s) shall provide written reports on Ms. Reddish's work performance to the Department Monitor on a quarterly basis, as directed by the Department Monitor. It shall be Ms. Reddish's responsibility to ensure that the reports are made in a timely manner.
- e. Ms. Reddish shall notify the Department Monitor of any change of nursing employment during the time in which the Order is in effect. Notification shall occur within fifteen (15) days of a change of employment and shall include an explanation of the reasons for the change.
- f. During the pendency of this Order and any subsequent related Orders, Ms. Reddish may not practice in another state pursuant to the Nurse Licensure Compact under the authority of a Wisconsin license, unless Ms. Reddish receives prior written authorization to do so from both the Wisconsin Board of Nursing and the regulatory board in the other state.

Treatment/Therapy Requirements

- g. Ms. Reddish shall obtain treatment with a therapist pre-approved by the Board. The therapist shall receive a copy of this Order prior to treatment.
- h. Ms. Reddish's therapist shall provide written reports on Ms. Reddish's treatment to the Department Monitor on a quarterly basis, as directed by the Department Monitor. It shall be Ms. Reddish's responsibility to ensure that the reports are made in a timely manner.

After two (2) years from the date of this Order, Ms. Reddish should be permitted to petition the Board for the modification or termination of the limitation. The Board may grant or deny the petition, in its discretion, or may modify this Order as it sees fit.

Ms. Reddish argues that summary judgment is inappropriate on the issue of discipline.

She asserts that, pursuant to Wis. Stat. § 441.07, discipline "may" be imposed and that discipline is never automatic. She also argues that a hearing is required because under Wis. Stat. § 441.07,

discipline may be imposed only after disciplinary proceedings are conducted. *See* Wis. Stat. § 441.07 (“The board may, *after disciplinary proceedings conducted* in accordance with rules promulgated under s. 440.03 (1), revoke, limit, suspend or deny renewal of a license of a registered nurse . . . or a licensed practical nurse. . . if the board finds that the person committed any of the following. . .”) (Emphasis added.)

To the extent that Ms. Reddish is arguing that Wis. Stat. § 441.07 requires that a *hearing* must be held in every case, that argument must be rejected. Ms. Reddish offers no support for the contention that the term “proceedings” is equivalent to the term “hearing” or that a requirement for “disciplinary proceedings” may not be satisfied by summary judgment proceedings, as here, or, as in other cases, by default proceedings or by a stipulated agreement. In fact, other provisions of the Wisconsin statutes explicitly allow for contested cases to be resolved without a hearing. For example, Wis. Stat. § 227.44(5) allows disposition of any contested case “by stipulation, agreed settlement, consent order or default.” In addition, Wis. Stat. § 227.43(1)(d) specifically allows the Division of Hearings and Appeals (DHA) to promulgate rules relating to the DHA’s powers and duties, and consistent with that provision, DHA promulgated Wis. Admin. Code § HA 1.10(2), which explicitly provides: “(2) SUMMARY JUDGMENT. The summary judgment procedure as provided in s. 802.08, Stats., shall be available to the parties upon approval by the division or the administrative law judge.” Thus, a hearing is not required in every disciplinary proceeding.

However, Ms. Reddish is correct that summary judgment is nonetheless inappropriate on the issue of discipline in this matter as the undisputed facts do not establish that the discipline recommended by the Division is warranted as a matter of law.

Although the Minnesota Board found that two different psychiatrists had concluded in 2009 and 2010 that Ms. Reddish had serious mental health issues, including chronic paranoid delusions, hallucinations and psychosis, subsequent evaluations indicate that she is currently able

to practice nursing. Both Dr. Dembosky and Dr. Hamann found no evidence of the paranoia, hallucinations, and psychosis that were found in 2009 and 2010. Dr. Dembosky did not recommend any restrictions on Ms. Reddish's nursing practice and Dr. Hamann recommended only "normal supervision that any nurse would be subject to in a structured work environment" and not "any form of supervision which would take place above and beyond the normal work environment." He stated that the intent of the statement in his report regarding supervision was to avoid the lack of normal supervision which appeared to have occurred in some of the workplace environments in which Ms. Reddish was previously employed.

The State argues, however, that it bases its request for work restrictions on Ms. Reddish's entire psychiatric history, not on her most recent psychiatric history, and that the Division is requesting that she be supervised so that in the event behaviors similar to those alleged in Minnesota emerge, appropriate action can be taken. While the Division's recommended discipline may well be reasonable, it is not a decision appropriate for summary judgment because the recommended discipline has not been established "as a matter of law" as required by Wis. Stat. 802.08(2). Thus, Ms. Reddish is entitled to a hearing on the issue of discipline. Alternatively, if both parties agree that the issue of discipline may be determined without a hearing based upon the parties' written submissions, they shall inform the ALJ at the next-scheduled status conference ordered below.

V. Costs

The Division argues that Ms. Reddish should be required to pay the full costs of the investigation and disciplinary proceedings in this matter. The Division does not frame its argument with respect to costs within the parameters of summary judgment standards.

Factors to consider in imposing costs include: (1) the number of counts charged, contested and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the Division; (4) the cooperation of the respondent; (5) any prior discipline; and (6) the

fact that the Department is a program revenue agency, funded by other licensees. *See In the Matter of Disciplinary Proceedings against Elizabeth Buenzli-Fritz* (LS 0802183 CHI). Ms. Reddish has made no argument with respect to costs. Presumably, because she appears to dispute that a violation has occurred, she likewise believes that imposition of costs is unwarranted.

In view of the fact that the parties have not argued costs in the framework of summary judgment proceedings, and considering that a hearing may be held on the issue of discipline, summary judgment will not be granted on the issue of costs, and instead, the parties should inform the ALJ at the next-scheduled status conference whether they wish to argue the issue of costs at a hearing or whether the issue may be decided based on the parties' written submissions.

ORDER

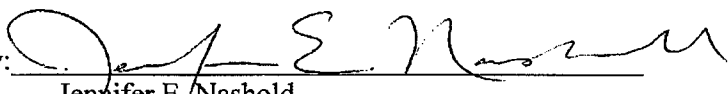
For the reasons set forth above, IT IS ORDERED that:

1. The Division's motion for summary judgment is granted with respect to the issue of whether Ms. Reddish engaged in misconduct or unprofessional conduct in violation of Wis. Stat. § 441.07(1)(d) and Wis. Admin. § N.7.04(7).
2. The Division's motion for summary judgment is denied with respect to the issues of discipline and costs.
3. A status conference will be held on Monday, September 24, 2012 at 10:30 a.m. to establish whether the issues of discipline and costs may be determined on the basis of the parties'

written submissions or whether a hearing is required on these issues, and if a hearing is required, to establish a date for such hearing.

Dated at Madison, Wisconsin on September 6, 2012.

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By: 
Jennifer E. Nashold
Administrative Law Judge

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