

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

In the Matter of the Disciplinary Proceedings
Against

FINAL DECISION AND ORDER
WITH VARIANCE

LISA L. STANGE, R.N.,
Respondent

DHA Case No. SPS-14-0026
DLSC Case No. 13 NUR 404
Order No. **0003544**

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

Lisa L. Stange, R.N., by
Attorney Guy-Robert Detlefsen, Jr.
Detlefsen Law Office, S.C.
464 Daly Avenue Suite 2
Wisconsin Rapids, WI 54494

Wisconsin Board of Nursing
P.O. Box 8366
Madison, WI 53708-8366

Department of Safety and Professional Services, Division of Legal Services and Compliance, by
Attorney Kim M. Kluck
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53708-7190

BACKGROUND

On September 15, 2014, Administrative Law Judge Jennifer Nashold (ALJ), Department of Administration, Division of Hearings and Appeals, issued a Proposed Decision and Order (PDO) in the above referenced matter. The PDO was mailed to all parties. Lisa L. Stange (Respondent), via her attorney, filed written objections to the PDO. The Department of Safety and Professional Services, Division of Legal Services and Compliance (Division), via Attorney Kim Kluck, responded in writing to the objections and asked that the Board of Nursing (Board) adopt in whole, the PDO. The Board met on November 13, 2014 to consider the merits of the PDO, objections and response. The Board voted to approve the PDO with several variances. The PDO is attached hereto and incorporated in its entirety into this Final Decision and Order with Variance (Order).

VARIANCE

Pursuant to Wis. Stat. §§ 440.035(1), 441.01 and 441.07, the Board is the regulatory authority and final decision maker governing disciplinary matters of those credentialed by the Board. The matter at hand is characterized as a class 2 or 3 proceeding pursuant to Wis. Stat. § 227.01(3). The Board may make modifications to a PDO, a class 2 or 3 proceeding, pursuant to Wis. Stat. § 227.46(2), as long as the Board includes an explanation of the basis for each variance.

In the present case, the Board adopts the PDO in its entirety except for the following. Under **PROCEDURAL HISTORY**, page 1, first sentence, the stated date of March 19, 2004 should be changed to March 19, 2014. The record contains a copy of the Complaint along with a cover letter detailing when the Complaint was filed which was March 19, 2014.

The section titled, **Discipline**, beginning on page 3 is eliminated and replaced as set forth below. The section titled, **ORDER**, beginning on page 8 is eliminated and replaced as set forth below.

Discipline

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 Department requests imposition of the Wisconsin Board of Nursing's (Board) standard five-year impairment order, with an indefinite suspension of Respondent's license and a five-year period of monitoring and treatment, following which the Board may grant a petition for a return of full licensure. The standard impairment order also provides the opportunity for a stay of the suspension if Respondent is in compliance with a series of treatment and reporting requirements. In support of its recommended discipline, the Department cites two cases, *In the Matter of Disciplinary Proceedings Against Brian J. Reynolds, R.N.*, Order No. 0002520 (July 11, 2013) and *In the Matter of Disciplinary Proceedings Against Denise F. Linder, R.N.*, Order No. 0511141NUR (Mar. 9, 2006), in which the Board imposed virtually the same discipline as that recommended here.

Respondent argues that there should be no drug and alcohol treatment ordered in light of the AODA Assessment and Recommendation completed by Peter Debbink of Lutheran Social Services, the agency the Board evidently recommended to Respondent for obtaining an assessment. The report, which was based solely on Respondent's input, stated that Respondent did not qualify for an AODA diagnosis and recommended no treatment because Respondent's use of cocaine was an isolated incident and was her first-ever reported problem. The report did recommend that Respondent be drug tested in the near future and then again in one year's time.

The assessment was based on the following information conveyed by Respondent to Mr. Debbink. Respondent stated that the night before the April 27, 2013 work incident, she went out to a bar with friends and consumed four large glasses of wine, that she was then offered cocaine,

and that she snorted two to three lines. She stated that she would not have taken the cocaine had she not been intoxicated. Respondent, who is 49 years old, also reported that from ages 18-22, she used cocaine 10 different times while out with friends, that she did not use it for a year when she was 22 years old due to her pregnancy, and that since that time has only used cocaine one to two times aside from the incident in April 2013. She also reported that she used marijuana from ages 16-18, smoking approximately one time per week, that from ages 18-23, her use decreased to two times per year, and that her last use of marijuana was at age 23. The only other illegal substance she tried was mushrooms at the age of 20. With respect to alcohol, Respondent reported to Mr. Debbink that for the past five to six years, her drinking has been one to two times per week, with two to three drinks per occasion, and that prior to that, her drinking was likewise not significant or problematic, with the exception of a two-day period in 2007 following the death of her son, during which she drank two days in a row, approximately five drinks per day.

Respondent argues that the Division (and presumably the Board) should not substitute its opinion for the opinion of the expert, Mr. Debbink. Respondent further asserts that the discipline imposed should be a two-year suspension with two urine drug screen tests during that time period, one to occur in the near future and the other to occur approximately one year later to demonstrate to the Board that there is no pattern of illegal substance use. Respondent agrees with the Division that Respondent should be provided the opportunity to petition for a stay of the suspension at any time. Respondent states that the situation in this case is substantially similar to the circumstances in the following three cases: *In the Matter of Disciplinary Proceedings Against David M. Knack*, Order No. 0003012 (Feb. 13, 2014), *In the Matter of Disciplinary Proceedings Against Tina M. Behrens*, Order No. 0000223 (June 3, 2010), and *In the Matter of Disciplinary Proceedings Against Christy Pullara*, Order No. 0002867 (Dec. 19, 2013). In those cases, the discipline ordered by the Board was far less rigorous than that recommended by the Division here.

The Division counters that it is not clear how two urine drug screening tests, approximately one year apart, would demonstrate whether there is a pattern of illegal substance use, and that closer monitoring is necessary.

As was not unexpected, neither party was able to produce a Board decision that was directly on point. The parties did produce Board decisions with some similar facts and circumstances which the Board has found helpful in determining what discipline is appropriate in this case. Based on the facts of this case and on the Board's prior decisions, the Board concludes that the appropriate discipline resides somewhere between the two recommendations made by the parties.

The cases cited by the Division are distinguishable in that there was more proof of substance abuse issues in those cases and, in *Linder*, proof of impairment while on the job. In *Linder*, the Minnesota Board of Nursing ordered an immediate and indefinite suspension of Denise Linder's Minnesota nursing license based on facts showing that Linder had numerous documentation errors and irregularities in her administration and handling of narcotic medications, and that she diverted medication from her employer for her own use. In addition, several years after the Minnesota Board's Order, Linder showed up for her shift with her Wisconsin employer at 3:00 p.m. with slurred speech, an unsteady gate, a flushed face and glassy eyes. She then tested positive for THC.

In the instant case, although the facts show that Respondent had cocaine in her system while at work, unlike in *Linder*, the evidence did not establish that she was impaired at work. Also, unlike in *Linder*, there was no indication that Respondent was diverting medications from patients for her own use. In addition, although there is some evidence that Respondent experimented with illegal substances before the night in question, unlike in *Linder*, there is not a pattern of use throughout the years which negatively impacted her work. Finally, unlike in *Linder*, the expert in this case did not believe that an AODA diagnosis or treatment was warranted based on Respondent's description of her history and the event in question.

In *Reynolds*, the Kansas Board of Nursing entered a default order in 2011 revoking Brian Reynolds' nursing license based on the following facts. In 2008, Reynolds entered the Kansas Nurse Assistance Program (KNAP). Twice in 2009, while participating in KNAP, Reynolds tested positive in his drug screens. Later in 2009, Mr. Reynolds dropped out of KNAP and his case was closed. In 2010, the Kansas Board ordered Mr. Reynolds to re-enter KNAP; however, Reynolds had moved out of Kansas without informing KNAP. Following the Kansas Board's Order, Reynolds worked in a Wisconsin hospital for over two years and had no positive drug screens or practice issues. At the time of the Wisconsin Board's 2013 Order, Reynolds was working on his master's degree, was enrolled in a treatment program and had had negative urine screens since beginning treatment.

The Wisconsin Board imposed the standard impairment order, with some adjustments. First, the indefinite suspension was stayed immediately because Reynolds had been in compliance with the treatment, monitoring and reporting limitations required by the Order. In addition, the Board permitted Reynolds to work in a setting in which he had access to controlled substances, with the caveat that if the AODA treater subsequently recommended restriction on such access, the Board could impose such restrictions. Also, rather than having to obtain approval from the Board for employment, as in the standard impairment order requested here, the Board permitted Reynolds to keep his current employment and obtain approval for any change in employment.

Unlike in *Reynolds*, the record here does not show a history of drug abuse. In fact, the only expert in this case has indicated that neither an AODA diagnosis nor treatment is warranted. Further, unlike Reynolds, Respondent did not use illegal substances while in a treatment program and did not drop out of the program and leave the state in which the treatment was imposed. Although Reynolds took substantial steps to turn his life around, the evidence in that case showed much more clearly that such steps were needed.

Likewise distinguishable are several other cases cited by Respondent in which the Board imposed impairment orders similar to that requested here. *See In the Matter of Disciplinary Proceedings Against Diane L. Moesch, R.N.*, Order No. LS07100411NUR (Date Unknown) (nurse diverted morphine from multiple patients for her personal use and was diagnosed with opioid dependence but at time of Board Order was complying with drug treatment program; standard impairment order imposed but indefinite suspension stayed for compliance); *In the Matter of Disciplinary Proceedings Against David Ortiz, R.N.*, Order No. 0002665 (Oct. 10, 2013) (nurse forged multiple physicians' signatures on prescriptions for zolpidem, a Schedule IV controlled substance, and obtained the zolpidem from multiple pharmacies, and admitted to taking 15 tablets of zolpidem per day); *In the Matter of Disciplinary Proceedings Against Kristy Reese, R.N.*, Order No. 0002595 (Sept. 12, 2013) (nurse arrested for operating while intoxicated

while on her way to work at hospital after hitting a light pole, with morphine in her system and syringes and controlled substances in her car); *In the Matter of Disciplinary Proceedings Against Violet K. Thelen, R.N.*, Order No. 0003313 (July 10, 2014) (nurse stole fentanyl patches and Vicodin from patients and employer; admitted to taking eight Vicodin per day and diverting one to two Vicodin per shift for the past six months, and was criminally charged for her actions).

In light of the differences between this case and those cases discussed above in which the standard impairment order was imposed, the discipline here should be less stringent than that imposed in those cases. However, the three cases upon which Respondent relies are likewise distinguishable as they involved less egregious facts than those here.

In *Knack*, the respondent David Knack was employed as a nurse at a hospital during which time an internal investigation revealed improper charting, improper documentation of medication administration, and removal of medication from PYXIS that was unaccounted for. Knack underwent a drug screen, and the results were positive for marijuana. Pursuant to a stipulation, he was found to be negligent as defined by Wis. Admin. Code § N 7.03(1)(b) by demonstrating a failure to maintain competency in practice and methods of nursing care, and he was also found to have engaged in unprofessional conduct as defined by Wis. Admin. Code § N 7.0304(2) by obtaining any drug other than in the course of legitimate practice or as otherwise prohibited by law. He was reprimanded and his nursing license was limited as follows: within 90 days of the Order, he had to successfully complete six hours of education on the topic of responsible medication dispensing and documentation; he was required to submit proof of completion of the education to the Department Monitor within 30 days; and his nursing practice was limited to Wisconsin during the pendency of the limitation.

In *Behrens*, the respondent Tina Behrens, prior to taking employment as a nurse in California, submitted to a pre-employment drug test which tested positive for marijuana. She agreed that her possession of marijuana was in violation of Wis. Stat. § 961.41(3g)(e), a law substantially related to the practice of nursing, and also agreed that she therefore engaged in unprofessional conduct as defined by Wis. Admin. Code N 7.04(1) (as it existed at the time of the conduct). Behrens was reprimanded and her license was limited to require that she submit to a drug test at any time within one year from the date of the Order, upon the request of the Board or Department. She was also prohibited from practicing nursing in another state unless she received prior written authorization from the Wisconsin Board and the regulatory board in the other state.

Unlike in the instant case involving cocaine, these two other cases involved marijuana. As reflected by the more serious criminal penalties for possession of cocaine versus marijuana, cocaine is generally considered a more serious substance than marijuana. *See e.g.*, Wis. Stat § 961.41(3g)(c) and (e). In addition, Behrens tested positive during a pre-employment drug screen and, unlike in the instant case, there was no indication that she tested positive while actually on the job. Finally, unlike in the instant case, in which Respondent's license was suspended by the Florida Department of Health, neither Knack nor Behrens had disciplinary action taken against their licenses in another jurisdiction.

Although the above citations were helpful, the two cases that provided the most help to the Board, based upon some similarity of facts, were *Pullara* and *In the Matter of Disciplinary*

Proceedings Against Kristin K. Hewitt, R.N., Order No. 0002876, (Dec. 19, 2013). While helpful, such cases are also distinguishable.

In *Pullara*, the respondent Christy Pullara, while under a Board Order requiring her to submit to random drug screening, tested positive on four occasions during a four-month period to either cannabinoids or cocaine or both. The Board reprimanded her and imposed limitations on her license for a period of 18 months. The limitations required her to enroll and participate in a drug and alcohol monitoring program approved by the Department, and drug and alcohol testing at a frequency of not less than 49 times per year for the first year and then, upon petition, at a level determined by the Board. The Order also required abstention from all personal use of controlled substances unless prescribed for a medical condition, and reporting to the Department all prescription and over-the-counter medications. Unlike in the instant case, there was no indication that Pullara had drugs in her system while on the job as a nurse and her license was not suspended in another jurisdiction.

In *Hewitt*, the respondent, Kristin Hewitt, was found unresponsive in her vehicle in the parking garage of her employer, a hospital clinic. Police were called, field sobriety tests conducted, and Hewitt was arrested for Operating While Impaired (OWI). Police searched Hewitt's vehicle and found multiple empty syringes labeled with a variety of controlled substances. Hewitt was drug tested and tested positive for diphenhydramine. She admitted removing the medications from the clinic and was terminated from the hospital. In a response submitted to the Department, Hewitt admitted to attempting to commit suicide and taking Dilaudid, a schedule II controlled substance, from her employer which she was supposed to waste. Hewitt submitted to a hair test and tested negative for all fourteen drugs tested. Hewitt participated in an alcohol and drug abuse assessment and a fitness to practice assessment. The treater found that Hewitt had a drug abuse history but did not meet the criteria for drug or alcohol abuse or dependence. The treater found Hewitt was fit to practice and did not believe any practice restrictions were required. The Board in *Hewitt*, reprimanded Hewitt, limited her license to require drug monitoring and reporting requirements for at least two years, drug and alcohol testing of not less than 10 times per year, and other restrictions, again for at least two years.

The ALJ's PDO found that *Hewitt* most closely resembled the facts at hand and therefore, that the discipline in *Hewitt* was appropriate to impose on Ms. Stange. The Board agrees in part. While *Hewitt* is helpful to determine what discipline is appropriate for the case at hand, that case is also distinguishable. Kristin Hewitt admitted to attempting to commit suicide. Her mental state was related to her actions in ingesting controlled substances. In the case at hand, the Respondent's use of cocaine was voluntary, intentional and consumed during a social event, the night before reporting to work the next day. In addition, the Respondent has a history of consuming cocaine and marijuana, on multiple social occasions, prior to the final occasion that led to the case at hand.

Because *Pullara* and *Hewitt* are similar to the facts at hand, the Board finds it reasonable to impose similar discipline. However, similar does not mean the same. The facts at hand are not the same as those in *Pullara* and *Hewitt*. In the case at hand, the Respondent had cocaine in her system while on the job. Ingesting cocaine, a highly addictive mind-altering substance, is a serious violation. That Respondent ingested cocaine after binge drinking is not a mitigating factor but is instead an aggravating factor. Also exacerbating Respondent's conduct is the fact that she binge drank and ingested cocaine the evening before her work shift as a nurse, and went

to work with cocaine still in her system. A nurse is responsible for the health and welfare of others and there should be no risk that a nurse will show up for her shift altered from ingestion of drugs and alcohol a short time before. Although there is not much evidence in this record with respect to the accident that Respondent was involved with during her work shift, there was sufficient concern on the part of her employer to prompt a drug test, which showed cocaine in Respondent's system. Moreover, this was not the first time Respondent had ingested cocaine and other drugs. Although her previous experience with controlled substances may have occurred years before the incident here, Respondent's history of drug use creates additional concern that she is drawn to controlled substances and that additional monitoring is required. In addition, Respondent's license in Florida was indefinitely suspended as a result of her actions. These facts, while similar to those in *Pullara* and *Hewitt*, have enough dissimilarity to warrant discipline tailored to the case at hand.

The Board concludes that a reprimand, along with drug monitoring reporting requirements, complete sobriety, drug and alcohol testing of not less than 48 times per year, and other limitations, for a period of no less than two years, as set forth below, will best serve to rehabilitate Respondent, protect the public, and deter others from engaging in such conduct. Such discipline best meets the criteria set forth in *Aldrich*.¹

ORDER

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

1. Respondent Lisa L. Stange is REPRIMANDED.
2. The nursing license issued to Respondent to practice nursing in the State of Wisconsin, and her privilege in Wisconsin pursuant to the Nurse Licensure Compact is LIMITED as follows:
 - a. For a period of at least two years from the date of this Order:
 - i. Respondent shall enroll and participate in a drug and alcohol monitoring program which is approved by the Department (Approved Program).
 - ii. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:

¹ The Board varied the ALJ's discipline as the Board did not feel that the facts at hand were so close to those in *Hewitt* that the exact same discipline was warranted. The Board felt that the facts in *Hewitt* and *Pullara*, while similar to those in the case at hand, had enough differences to warrant a difference in discipline so as to better meet the disciplinary criteria set forth in *Aldrich*. The Board varied the terms of the **ORDER** to reflect the changes in discipline.

1. Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 2. Production of a urine, blood, sweat, fingernail, hair, saliva or other specimen at a collection site designated by the Approved Program within five hours of notification of a test.
 3. The Approved Program shall require the testing of specimens at a frequency of not less than forty-nine (49) times per year, for the first year of this Order. After the first year, Respondent may petition the Board on an annual basis for a modification of the frequency of tests. The Board may adjust the frequency of testing on its own initiative at any time.
- iii. Respondent shall abstain from all personal use of alcohol.
- iv. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose her drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall, at the time the controlled substance is ordered, immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
- v. Respondent shall report to the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within 24 hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.
- vi. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that she may take from time to time. Over-the-counter medications and drugs that mask the consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation, shall not be taken unless ordered by a physician, in which case the drug must be reported as described in paragraph 2(a)iv.
- vii. All positive test results for alcohol or controlled substances shall be presumed to be valid and may result in automatic suspension of licensure by the Board or the Board's designee. Respondent must prove by a preponderance of the

evidence an error in collection, testing, fault in the chain of custody or other valid defense.

viii. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.

3. The professional nursing license issued to Respondent to practice nursing in the State of Wisconsin, and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, is further LIMITED as follows:

- a. For a period of at least two years, Respondent shall provide her nursing employers with a copy of this Order before engaging in any nursing employment.
- b. For a period of at least two years while working at least half-time as a nurse, Respondent shall work only under direct supervision, and only in a work setting pre-approved by the Board. Respondent shall not work in a home health, assisted living, agency or pool position.
- c. For a period at least two years while working at least half-time as a nurse, Respondent shall arrange for her nursing employer(s) to send to the Department Monitor quarterly reports, reporting the terms and conditions of her employment and evaluating her work performance.
- d. Respondent 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 15 days of the change of employment and shall include an explanation of the reason for the change.
- e. After two years of working at least half-time as a nurse, Respondent may 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.

4. During the pendency of this Order and any subsequent related orders, Respondent may not practice in another state pursuant to the Uniform Nurse Licensure Compact under the authority of a Wisconsin license, unless Respondent receives prior written authorization of both the Wisconsin Board and the regulatory board in the other state.

5. The Board or its designee may, without hearing, suspend Respondent's nursing license upon receipt of information that Respondent is in substantial or repeated violation of any provision of this Order. A substantial violation includes, but is not limited to, a positive drug or alcohol screen. A repeated violation is defined as the multiple violations of the same provision or violation of more than one provision.

6. After two years from the date of this Order, Respondent may petition the Board for the modification or termination of these limitations. The Board may grant or deny the petition, in its discretion, or may modify this Order as it sees fit.

IT IS FURTHER ORDERED that Respondent shall pay 50 percent of all recoverable costs 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 7190
Madison, WI 53707-7190

IT IS FURTHER ORDERED that the terms of this Order are effective the date the Final Decision and Order with Variance is signed by the Board.

Dated at Madison, Wisconsin on 18th day of November, 2014.

By: Paul Abegglen (DW)
A Member of the Board



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Disciplinary Proceedings
Against **LISA L. STANGE, R.N.**, Respondent

DHA Case No. SPS-14-0026
DLSC Case No. 13 NUR 404

0003544

PROPOSED DECISION AND ORDER

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

Lisa L. Stange, R.N., by:

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

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Department of Safety and Professional Services
Division of Legal Services and Compliance
P. O. Box 7190
Madison, WI 53707-7190

PROCEDURAL HISTORY

On March 19, 2004, the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed a Complaint against Respondent Lisa L. Stange, alleging that she engaged in one count of unprofessional conduct as defined by Wis. Admin. Code § N 7.04(7) (as it existed in February 2014, the time of the alleged conduct), in that disciplinary action was taken against her license in another jurisdiction through final board adjudication. On May 8, 2014, Respondent submitted an Answer to the Complaint, admitting that her license was disciplined in another jurisdiction and that she violated Wis. Admin. Code § N 7.04(7).

On May 13, 2014, a prehearing conference was held by telephone at which time Respondent admitted the conduct and violation alleged in the Complaint, consistent with her Answer to the Complaint. The parties agreed that the remaining issues of discipline and costs could be decided based on the parties' written submissions. On May 14, 2014, the undersigned administrative law judge (ALJ) issued a Briefing Order setting deadlines for the filing of the parties' written submissions. At the request of Respondent's counsel, an Amended Briefing Order was issued on July 22, 2014, extending the deadlines in which to file briefs, with the last submission due on August 7, 2014.

FINDINGS OF FACT

1. Respondent Lisa L. Stange, R.N., (DOB January 7, 1965) is licensed in the State of Wisconsin as a professional nurse, having license number 116007-30, first granted on March 25, 1994. This license expired on February 28, 2014, and has not been renewed. Pursuant to Wis. Stat. § 440.08(3), Respondent retains the right to renew upon payment of a fee until February 28, 2019. Respondent's most recent address on file with the Department is N5420 Hamm Circle, New Lisbon, Wisconsin 53950. (Complaint, ¶ 1; Answer, ¶ 1)

2. At all times relevant to this proceeding, Respondent was employed as a professional nurse at a medical center (Center) located in Plantation, Florida. (Complaint, ¶ 2; Answer, ¶ 2)

3. On April 27, 2013, Center asked Respondent to provide a urine sample for a post-accident drug screen as a result of a workplace accident. Respondent's urine sample tested positive for cocaine. Respondent admitted to the use of cocaine without a valid medical purpose. (Complaint, ¶¶ 4-6; Answer, ¶¶ 4-6)

4. On February 20, 2014, the Department of Health for the State of Florida issued a final Order suspending Respondent's license to practice as a registered nurse in the State of Florida. (Complaint, ¶ 7; Answer, ¶ 7)

5. The parties agree that Respondent violated Wis. Admin. Code § N 7.04(7) (as it existed in February 2014) by having disciplinary action through final board adjudication taken against her license in another jurisdiction. (Complaint, ¶ 8; Answer, ¶ 8)

6. The parties agree that as a result of the above violation, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).¹ (Complaint, ¶ 9; Answer, ¶ 9)

DISCUSSION

Violations

The parties agree that Respondent violated Wis. Admin. Code § N 7.04(7) (as it existed in February 2014) by having disciplinary action through final board adjudication taken against

¹ The parties mistakenly refer to Wis. Stat. § 441.07(1)(b) and (d), the numbering of the statute as it existed prior to the statutory amendments which took effect December 21, 2013. These provisions are now numbered as 441.07(1g)(b) and (d). See 2013 Wisconsin Act 114. The conduct at issue is the Florida Department of Health's Order, which was issued on February 20, 2014, after the amendments to the statute.

her license in another jurisdiction. The parties also agree that as a result of the above violation, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d). Thus, the only remaining issues in this case are those related to discipline and costs.

Discipline

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 Department requests imposition of the Wisconsin Board of Nursing's (Board) standard five-year impairment order, with an indefinite suspension of Respondent's license and a five-year period of monitoring and treatment, following which the Board may grant a petition for a return of full licensure. The standard impairment order also provides the opportunity for a stay of the suspension if Respondent is in compliance with a series of treatment and reporting requirements. In support of its recommended discipline, the Department cites two cases, *In the Matter of Disciplinary Proceedings Against Brian J. Reynolds, R.N.*, Order No. 0002520 (July 11, 2013) and *In the Matter of Disciplinary Proceedings Against Denise F. Linder, R.N.*, Order No. 0511141NUR (Mar. 9, 2006), in which the Board imposed virtually the same discipline as that recommended here.

Respondent argues that there should be no drug and alcohol treatment ordered in light of the AODA Assessment and Recommendation completed by Peter Debbink of Lutheran Social Services, the agency the Board evidently recommended to Respondent for obtaining an assessment. The report, which was based solely on Respondent's input, stated that Respondent did not qualify for an AODA diagnosis and recommended no treatment because Respondent's use of cocaine was an isolated incident and was her first-ever reported problem. The report did recommend that Respondent be drug tested in the near future and then again in one year's time.

The assessment was based on the following information conveyed by Respondent to Mr. Debbink. Respondent stated that the night before the April 27, 2013 work incident, she went out to a bar with friends and consumed four large glasses of wine, that she was then offered cocaine, and that she snorted two to three lines. She stated that she would not have taken the cocaine had she not been intoxicated. Respondent, who is 49 years old, also reported that from ages 18-22, she used cocaine 10 different times while out with friends, that she did not use it for a year when she was 22 years old due to her pregnancy, and that since that time has only used cocaine one to two times aside from the incident in April 2013. She also reported that she used marijuana from ages 16-18, smoking approximately one time per week, that from ages 18-23, her use decreased to two times per year, and that her last use of marijuana was at age 23. The only other illegal substance she tried was mushrooms at the age of 20. With respect to alcohol, Respondent reported to Mr. Debbink that for the past five to six years, her drinking has been one to two times per week, with two to three drinks per occasion, and that prior to that, her drinking was likewise not significant or problematic, with the exception of a two-day period in 2007 following the death of her son, during which she drank two days in a row, approximately five drinks per day.

Respondent argues that the Division (and presumably this tribunal) should not substitute its opinion for the opinion of the expert, Mr. Debbink. Respondent further asserts that the discipline imposed should be a two-year suspension with two urine drug screen tests during that time period, one to occur in the near future and the other to occur approximately one year later to

demonstrate to the Board that there is no pattern of illegal substance use. Respondent agrees with the Division that Respondent should be provided the opportunity to petition for a stay of the suspension at any time. Respondent states that the situation in this case is substantially similar to the circumstances in the following three cases: *In the Matter of Disciplinary Proceedings Against David M. Knack*, Order No. 0003012 (Feb. 13, 2014), *In the Matter of Disciplinary Proceedings Against Tina M. Behrens*, Order No. 0000223 (June 3, 2010), and *In the Matter of Disciplinary Proceedings Against Christy Pullara*, Order No. 0002867 (Dec. 19, 2013). In those cases, the discipline ordered by the Board was far less rigorous than that recommended by the Division here.

The Division counters that it is not clear how two urine drug screening tests, approximately one year apart, would demonstrate whether there is a pattern of illegal substance use, and that closer monitoring is necessary.

Based on the facts of this case and on the Board's prior decisions, I conclude that the appropriate discipline resides between the two recommendations made by the parties. I agree with the Division that more monitoring than that requested by Respondent is required, but agree with Respondent that Mr. Debbink's opinion is entitled to some deference. I also conclude that the facts of this case are not as egregious as those cases relied on by the Division, where the standard impairment order was imposed, but are more egregious than the facts in the cases relied upon by Respondent.

The cases cited by the Division are distinguishable in that there was more proof of substance abuse issues in those cases and, in *Linder*, proof of impairment while on the job. In *Linder*, the Minnesota Board of Nursing ordered an immediate and indefinite suspension of Denise Linder's Minnesota nursing license based on facts showing that Linder had numerous documentation errors and irregularities in her administration and handling of narcotic medications, and that she diverted medication from her employer for her own use. In addition, several years after the Minnesota Board's Order, Linder showed up for her shift with her Wisconsin employer at 3:00 p.m. with slurred speech, an unsteady gate, a flushed face and glassy eyes. She then tested positive for THC.

In the instant case, although the facts show that Respondent had cocaine in her system while at work, unlike in *Linder*, the evidence did not establish that she was impaired at work. Also, unlike in *Linder*, there was no indication that Respondent was diverting medications from patients for her own use. In addition, although there is some evidence that Respondent experimented with illegal substances before the night in question, unlike in *Linder*, there is not a pattern of use throughout the years which negatively impacted her work. Finally, unlike in *Linder*, the expert in this case did not believe that an AODA diagnosis or treatment was warranted based on Respondent's description of her history and the event in question.

In *Reynolds*, the Kansas Board of Nursing entered a default order in 2011 revoking Brian Reynolds' nursing license based on the following facts. In 2008, Reynolds entered the Kansas Nurse Assistance Program (KNAP). Twice in 2009, while participating in KNAP, Reynolds tested positive in his drug screens. Later in 2009, Mr. Reynolds dropped out of KNAP and his case was closed. In 2010, the Kansas Board ordered Mr. Reynolds to re-enter KNAP; however, Reynolds had moved out of Kansas without informing KNAP. Following the Kansas Board's Order, Reynolds worked in a Wisconsin hospital for over two years and had no positive drug screens or practice issues. At the time of the Wisconsin Board's 2013 Order, Reynolds was

working on his master's degree, was enrolled in a treatment program and had had negative urine screens since beginning treatment.

The Wisconsin Board imposed the standard impairment order, with some adjustments. First, the indefinite suspension was stayed immediately because Reynolds had been in compliance with the treatment, monitoring and reporting limitations required by the Order. In addition, the Board permitted Reynolds to work in a setting in which he had access to controlled substances, with the caveat that if the AODA treater subsequently recommended restriction on such access, the Board could impose such restrictions. Also, rather than having to obtain approval from the Board for employment, as in the standard impairment order requested here, the Board permitted Reynolds to keep his current employment and obtain approval for any change in employment.

Unlike in *Reynolds*, the record here does not show a history of drug abuse. In fact, the only expert in this case has indicated that neither an AODA diagnosis nor treatment is warranted. Further, unlike Reynolds, Respondent did not use illegal substances while in a treatment program and did not drop out of the program and leave the state in which the treatment was imposed. Although Reynolds took substantial steps to turn his life around, the evidence in that case showed much more clearly that such steps were needed.

Likewise distinguishable are several other cases cited by Respondent in which the Board imposed impairment orders similar to that requested here. *See In the Matter of Disciplinary Proceedings Against Diane L. Moesch, R.N.*, Order No. LS07100411NUR (Date Unknown) (nurse diverted morphine from multiple patients for her personal use and was diagnosed with opioid dependence but at time of Board Order was complying with drug treatment program; standard impairment order imposed but indefinite suspension stayed for compliance); *In the Matter of Disciplinary Proceedings Against David Ortiz, R.N.*, Order No. 0002665 (Oct. 10, 2013) (nurse forged multiple physicians' signatures on prescriptions for zolpidem, a Schedule IV controlled substance, and obtained the zolpidem from multiple pharmacies, and admitted to taking 15 tablets of zolpidem per day); *In the Matter of Disciplinary Proceedings Against Kristy Reese, R.N.*, Order No. 0002595 (Sept. 12, 2013) (nurse arrested for operating while intoxicated while on her way to work at hospital after hitting a light pole, with morphine in her system and syringes and controlled substances in her car); *In the Matter of Disciplinary Proceedings Against Violet K. Thelen, R.N.*, Order No. 0003313 (July 10, 2014) (nurse stole fentanyl patches and Vicodin from patients and employer; admitted to taking eight Vicodin per day and diverting one to two Vicodin per shift for the past six months, and was criminally charged for her actions).

In light of the differences between this case and those cases discussed above in which the standard impairment order was imposed, the discipline here should be less stringent than that imposed in those cases. However, the three cases upon which Respondent relies are likewise distinguishable as they involved less egregious facts than those here.

In *Knack*, the respondent David Knack was employed as a nurse at a hospital during which time an internal investigation revealed improper charting, improper documentation of medication administration, and removal of medication from PYXIS that was unaccounted for. Knack underwent a drug screen, and the results were positive for marijuana. Pursuant to a stipulation, he was found to be negligent as defined by Wis. Admin. Code § N 7.03(1)(b) by demonstrating a failure to maintain competency in practice and methods of nursing care, and he was also found to have engaged in unprofessional conduct as defined by Wis. Admin. Code § N

7.0304(2) by obtaining any drug other than in the course of legitimate practice or as otherwise prohibited by law. He was reprimanded and his nursing license was limited as follows: within 90 days of the Order, he had to successfully complete six hours of education on the topic of responsible medication dispensing and documentation; he was required to submit proof of completion of the education to the Department Monitor within 30 days; and his nursing practice was limited to Wisconsin during the pendency of the limitation.

In *Behrens*, the respondent Tina Behrens, prior to taking employment as a nurse in California, submitted to a pre-employment drug test which tested positive for marijuana. She agreed that her possession of marijuana was in violation of Wis. Stat. § 961.41(3g)(e), a law substantially related to the practice of nursing, and also agreed that she therefore engaged in unprofessional conduct as defined by Wis. Admin. Code N 7.04(1) (as it existed at the time of the conduct). Behrens was reprimanded and her license was limited to require that she submit to a drug test at any time within one year from the date of the Order, upon the request of the Board or Department. She was also prohibited from practicing nursing in another state unless she received prior written authorization from the Wisconsin Board and the regulatory board in the other state.

Unlike in the instant case involving cocaine, these two other cases involved marijuana. As reflected by the more serious criminal penalties for possession of cocaine versus marijuana, cocaine is generally considered a more serious substance than marijuana. *See e.g.*, Wis. Stat. § 961.41(3g)(c) and (e). In addition, Behrens tested positive during a pre-employment drug screen and, unlike in the instant case, there was no indication that she tested positive while actually on the job. Finally, unlike in the instant case, in which Respondent's license was suspended by the Florida Department of Health, neither Knack nor Behrens had disciplinary action taken against their licenses in another jurisdiction.

Finally, in *Pullara*, the respondent Christy Pullara, while under a Board Order requiring her to submit to random drug screening, tested positive on four occasions during a four-month period to either cannabinoids or cocaine or both. The Board reprimanded her and imposed limitations on her license for a period of 18 months. The limitations required her to enroll and participate in a drug and alcohol monitoring program approved by the Department, which was to include contact with the program on a daily basis, drug screening within five hours of notification of a test, drug testing at a frequency of not less than 49 times per year for the first year and then, upon petition, at a level determined by the Board. The Order also required abstention from all personal use of controlled substances unless prescribed for a medical condition, and reporting to the Department all prescription and over-the-counter medications. In addition, Pullara's nursing practice was limited to Wisconsin during the pendency of the limitations and if she substantially violated any term of the Order, the Board could suspend her license. She could petition the Board after 18 months from the date of the Order for modification or termination of the limitations.

Unlike in the instant case, there was no indication that Pullara had drugs in her system while on the job as a nurse. In addition, unlike here, Pullara's license was not suspended in another jurisdiction. Finally, I note that the discipline imposed on Pullara, while perhaps not as rigorous as that recommended by the Division in this case, was nonetheless substantial, and as explained below, is not that different from the discipline imposed here.

Of the cases cited by the parties, the one which most closely resembles the instant case is *In the Matter of Disciplinary Proceedings Against Kristin K. Hewitt, R.N.*, Order No. 0002876, (Dec. 19, 2013) because it too involved an assessment by an AODA treater indicating that the nurse did not meet the criteria for drug or alcohol abuse or dependence, that the nurse was fit to practice, and that no practice restrictions were required. In that case, the respondent, Kristin Hewitt, was found unresponsive in her vehicle in the parking garage of her employer, a hospital clinic. Police were called, field sobriety tests conducted, and Hewitt was arrested for Operating While Impaired (OWI). Police searched Hewitt's vehicle and found multiple empty syringes labeled with a variety of controlled substances. Hewitt was drug tested and tested positive for diphenhydramine. She admitted removing the medications from the clinic and was terminated from the hospital. In a response submitted to the Department, Hewitt admitted to attempting to commit suicide and taking Dilaudid, a schedule II controlled substance, from her employer which she was supposed to waste. Hewitt submitted to a hair test and tested negative for all fourteen drugs tested.

Hewitt participated in an alcohol and drug abuse assessment and a fitness to practice assessment. The treater found that Hewitt had a drug abuse history but did not meet the criteria for drug or alcohol abuse or dependence. The treater found Hewitt was fit to practice and did not believe any practice restrictions were required.

Despite these facts, Hewitt's license was not indefinitely suspended, nor was treatment required, as requested by the Division here. Instead, she was reprimanded and her license was limited to require drug monitoring, reporting requirements and other restrictions.

I conclude that the discipline imposed in *Hewitt*, which is set forth in the Order section below, should be imposed here as the cases are substantially similar and such discipline best meets the disciplinary criteria set forth in *Aldrich*. Both cases involve a drug and alcohol assessment indicating no drug or alcohol dependency or treatment. Both cases lack sufficient evidence that the nurses were actually impaired while on the job. Unlike Respondent, there was no evidence that Hewitt had drugs in her system while on the job; however, unlike Respondent, Hewitt stole controlled substances from her employer and then ingested a sufficient amount of it in the hospital's garage to render her unresponsive, and she was arrested for OWI.

As in *Hewitt*, this tribunal is not bound by the AODA evaluator's recommendation with respect to practice restrictions. Ingesting cocaine, a highly addictive mind-altering substance, is a serious violation. That Respondent ingested cocaine after binge drinking is not a mitigating factor but is instead an aggravating factor. Also exacerbating Respondent's conduct is the fact that she binge drank and ingested cocaine the evening before her work shift as a nurse, and went to work with cocaine still in her system. A nurse is responsible for the health and welfare of others and there should be no risk that a nurse will show up for her shift altered from ingestion of drugs and alcohol a short time before. Although there is not much evidence in this record with respect to the accident that Respondent was involved with during her work shift, there was sufficient concern on the part of her employer to prompt a drug test, which showed cocaine in Respondent's system. Moreover, this was not the first time Respondent had ingested cocaine and other drugs. Although her previous experience with controlled substances may have occurred years before the incident here, Respondent's history of drug use creates additional concern that she is drawn to controlled substances and that additional monitoring is required. A reprimand, along with drug monitoring reporting requirements and other limitations, as set forth

below, will best serve to rehabilitate Respondent, protect the public, and deter others from engaging in such conduct.

Costs

The Division has the authority to assess costs pursuant to Wis. Stat. § 440.22. As it always does in proceedings before this tribunal, the Division requests that 100 percent of the costs be imposed on Respondent.

With respect to imposition of costs, factors to consider 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 prosecutor; (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. *In the Matter of Disciplinary Proceedings against Elizabeth Buenzli-Fritz*, Order No. LS 0802183 CHI (July 10, 2008).

Applying these factors, I conclude that 50 percent of the costs of these proceedings should be imposed. One count was charged, a count which Respondent admitted early on in these proceedings. The count was serious but Respondent has taken full responsibility for her actions and submitted to an AODA assessment in November of 2013, months before the Division's Complaint was filed. The only issue she contested in this case was the discipline to be imposed, which, in light of prior Board decisions and Mr. Debbink's evaluation, made perfect sense. Other than the Florida Order resulting from the same conduct as in the instant case, Respondent has no prior discipline in her 20-plus years as a nurse. In favor of imposition of costs in this case is the fact that it is solely Respondent's conduct which made these proceedings necessary, and it is unfair to impose the costs of this proceeding on members of her profession who have not engaged in such misconduct. In view of these factors, it is appropriate to require Respondent to pay 50 percent of the costs of this matter.

CONCLUSIONS OF LAW

1. Respondent violated Wis. Admin. Code § N 7.04(7) (as it existed in February 2014) by having disciplinary action through final board adjudication taken against her license in another jurisdiction, and as a result, is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

2. The Discipline imposed in the Order section below is warranted under the facts of this case and the factors set forth in *Aldrich*.

3. Consistent with Wis. Stat. § 440.22 and the factors articulated in *Buenzli-Fritz*, imposition on Respondent of 50 percent of the costs of this proceeding is warranted.

ORDER

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

1. Respondent Lisa L. Stange is REPRIMANDED.

2. The nursing license issued to Respondent to practice nursing in the State of Wisconsin, and her privilege in Wisconsin pursuant to the Nurse Licensure Compact is LIMITED as follows:

- a. For a period of at least two years from the date of this Order:
 - i. Respondent shall enroll and participate in a drug and alcohol monitoring program which is approved by the Department (Approved Program).
 - ii. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
 1. Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 2. Production of a urine, blood, sweat, fingernail, hair, saliva or other specimen at a collection site designated by the Approved Program within five hours of notification of a test.
 3. The Approved Program shall require the testing of specimens at a frequency of not less than ten times per year, for the first year of this Order. After the first year, Respondent may petition the Board on an annual basis for a modification of the frequency of tests. The Board may adjust the frequency of testing on its own initiative at any time.
 - iii. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose her drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall, at the time the controlled substance is ordered, immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
 - iv. Respondent shall report to the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within 24 hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.

- v. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that she may take from time to time. Over-the-counter medications and drugs that mask the consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation, shall not be taken unless ordered by a physician, in which case the drug must be reported as described in paragraph 2(a)iv.
- vi. All positive test results shall be presumed to be valid and may result in automatic suspension of licensure by the Board or the Board's designee. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- vii. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.

3. The professional nursing license issued to Respondent to practice nursing in the State of Wisconsin, and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, is further LIMITED as follows:

- a. For a period of at least two years, Respondent shall provide her nursing employers with a copy of this Order before engaging in any nursing employment.
- b. For a period of at least two years while working at least half-time as a nurse, Respondent shall work only under direct supervision, and only in a work setting pre-approved by the Board. Respondent shall not work in a home health, assisted living, agency or pool position.
- c. For a period at least two years while working at least half-time as a nurse, Respondent shall arrange for her nursing employer(s) to send to the Department Monitor quarterly reports, reporting the terms and conditions of her employment and evaluating her work performance.
- d. Respondent 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 15 days of the change of employment and shall include an explanation of the reason for the change.
- e. After two years of working at least half-time as a nurse, Respondent may 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.

4. During the pendency of this Order and any subsequent related orders, Respondent may not practice in another state pursuant to the Uniform Nurse Licensure Compact under the authority of a Wisconsin license, unless Respondent receives prior written authorization of both the Wisconsin Board and the regulatory board in the other state.

5. The Board or its designee may, without hearing, suspend Respondent's nursing license upon receipt of information that Respondent is in substantial or repeated violation of any provision of this Order. A substantial violation includes, but is not limited to, a positive drug screen. A repeated violation is defined as the multiple violations of the same provision or violation of more than one provision.

6. After two years from the date of this Order, Respondent may petition the Board for the modification or termination of these limitations. The Board may grant or deny the petition, in its discretion, or may modify this Order as it sees fit.

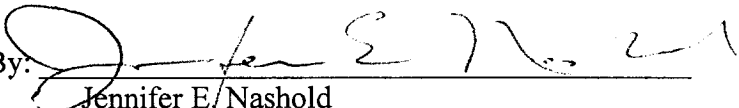
IT IS FURTHER ORDERED that Respondent shall pay 50 percent of all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to:

Department Monitor
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

IT IS FURTHER ORDERED that the terms of this Order are effective the date the Final Decision and Order is signed by the Board.

Dated at Madison, Wisconsin on September 15, 2014.

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: 
Jennifer E. Nashold
Administrative Law Judge