

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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Before The  
State Of Wisconsin  
BOARD OF NURSING

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In the Matter of the Disciplinary Proceedings  
Against **TRISTA E. NEY, R.N.**, Respondent

FINAL DECISION AND ORDER

Order No. **0003584**

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**Division of Legal Services and Compliance Case No. 14 NUR 039**

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

ORDER

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

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

Dated at Madison, Wisconsin on the 11<sup>th</sup> day of December, 2014.

A handwritten signature in cursive script, reading "Lloyd Krause".

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Member  
Board of Nursing



Before The  
State Of Wisconsin  
**DIVISION OF HEARINGS AND APPEALS**

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In the Matter of the Disciplinary Proceedings  
Against **TRISTA E. NEY, R.N.**, Respondent

PROPOSED DECISION AND ORDER  
DHA Case No. SPS-14-0054

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**Division of Legal Services and Compliance Case No. 14 NUR 039**

0003584

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

Trista E. Ney, R.N.  
32871 Juniper Street  
Burlington, WI 53105

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 53707-7190

**PROCEDURAL HISTORY**

These proceedings were initiated when the Department of Safety and Professional Services, Division of Legal Services and Compliance (Division), filed a formal Complaint against Respondent Trista E. Ney, R.N., alleging that Respondent engaged in misconduct or unprofessional conduct by violating a law substantially related to the practice of professional nursing, contrary to Wis. Admin. Code § N 7.04(1)<sup>1</sup>, and by obtaining a drug other than in the course of legitimate practice, contrary to Wis. Admin. Code § N 7.04(2). The Division served Respondent on July 1, 2014 by sending a copy of the Notice of Hearing and Complaint to her last known address in Burlington, Wisconsin. Respondent failed to file an Answer to the Complaint, as required by Wis. Admin. Code § SPS 2.09.

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<sup>1</sup> All references to Wis. Admin. Code § N 7.04 refer to the code as it existed before August 1, 2014.

On August 5, 2014, the undersigned Administrative Law Judge (ALJ) held a telephonic prehearing conference in which Respondent failed to appear and participate. The Division's attorney moved for default judgment based on Respondent's failure to appear at the conference and failure to file an Answer to the Complaint as required by Wis. Admin. Code § SPS 2.09 and as set forth in the Notice of Hearing sent to Respondent on July 1, 2014. The ALJ granted the motion for default.

Following the August 5, 2014 conference, Respondent contacted the ALJ and the ALJ agreed to vacate the default order and re-set the prehearing conference for August 13, 2014. On August 13, 2014, Respondent and the Division's attorney appeared for the prehearing conference and requested additional time to attempt to reach a settlement. The prehearing conference was re-scheduled to September 15, 2014 to permit the parties to attempt to negotiate a settlement.

The parties were unable to reach a settlement and Respondent subsequently failed to appear at the prehearing conference held before the ALJ on September 15, 2014. The Division renewed its earlier motion for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c). In light of Respondent's failure to file an Answer to the Complaint and failure to make herself available for the September 15, 2014 prehearing conference, the undersigned ALJ found Respondent to be in default. On September 16, 2014, the undersigned ALJ issued a Notice of Default against Respondent and ordered that the Division file a recommended proposed decision by September 25, 2014, which the Division submitted on September 24, 2014. Respondent has not filed a response to either the Notice of Default or the Division's submission.

## **FINDINGS OF FACT**

### **Facts Related to the Alleged Violation**

Findings of Fact 1-5 are taken from the Division's Complaint against Respondent filed in this matter.

1. Respondent Trista E. Ney, R.N., (D.O.B. July 24, 1985) is licensed in the State of Wisconsin to practice professional nursing, having license number 158893-30, first issued on November 28, 2007, with registration current through February 29, 2016.
2. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 32871 Juniper Street, Burlington, Wisconsin 53105.
3. On October 2, 2013, the Racine County Sheriff's Department executed a search warrant at Respondent's home in the Town of Burlington, Wisconsin. During the execution of the warrant, Agent Keith Dobesh conducted an investigative interview of Respondent. During the course of that interview, Respondent admitted to him that she had possession of pain medications (Percocet, Ambien and morphine) that were not prescribed to her and that she ingested them orally; that she smokes marijuana one to two times per day; that she sells marijuana to her friends; and that she last ingested heroin three weeks prior. She also admitted that needles located in her bathroom were her patients' and were used to inject heroin.

4. Agents found over 60 grams of marijuana in the home along with a scale, 44 Ambien tablets, six oxycodone/hydrochloride tablets, 4.8 grams of crushed Percocet, a broken morphine pill, a marijuana pipe, a pill grinder, needles, a spoon with residue and burn marks on the underside, small medication cups with water, and a lighter.

5. Respondent was arrested and charged in Racine County case number 2014CF000020 with possession with intent to deliver or manufacture THC, maintaining a drug trafficking place, possession of narcotic drugs, possession of a controlled substance, and possession of drug paraphernalia.

### **Facts Related to Default**

6. The Complaint and Notice of Hearing in this matter were served on Respondent on July 1, 2014, by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08. The Notice of Hearing stated that Respondent was required to file an Answer to the Complaint within 20 days, and further informed her: "If you do not file a proper Answer within 20 days, you will be found to be in default and a default judgment may be entered against you on the basis of the Complaint and other evidence and the Wisconsin Board of Nursing may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing."

7. Respondent failed to file an Answer as required by Wis. Admin. Code § SPS 2.09(4).

8. Following expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for August 5, 2014. Notice of this prehearing conference was sent to both parties, with instructions that Respondent provide the telephone number at which she could be reached for the conference to the ALJ no later than July 31, 2014.

9. Respondent failed to provide a telephone number and could not be reached for the prehearing conference.

10. The Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c). The ALJ granted the motion for default.

11. Following the August 5, 2014 conference, Respondent contacted the ALJ and the ALJ agreed to vacate the default order and re-set the prehearing conference for August 13, 2014. On August 13, 2014, Respondent and the Division's attorney appeared for the prehearing conference and requested additional time to attempt to reach a settlement. The prehearing conference was re-scheduled to September 15, 2014 to permit the parties to attempt to negotiate a settlement.

12. The parties were unable to reach a settlement, and Respondent subsequently failed to appear at the prehearing telephonic conference held before the ALJ on September 15, 2014. The Division renewed its earlier motion for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c). In light of Respondent's failure to file an Answer to the Complaint and failure to make herself available for the September 15, 2014 prehearing conference, the ALJ found Respondent to be in default.

13. On September 16, 2014, the ALJ issued a Notice of Default and ordered the Division to file and serve no later than September 25, 2014, a recommended proposed decision and order. The Division timely filed its proposed decision and order. Respondent did not respond to the Notice of Default or the Division's submission.

## **DISCUSSION AND CONCLUSIONS OF LAW**

### **Violations of Wisconsin Statutes and Administrative Code**

As stated in the Default Order, Respondent is in default for failing to provide an Answer to the Complaint and failing to appear at the September 15, 2014 prehearing conference. As a result, an order may be entered against Respondent on the basis of the allegations in the Complaint and other evidence. Wis. Admin. Code § SPS 2.14; Wis. Admin. Code § HA 1.07(3).

It is undisputed that law enforcement found the following in Respondent's home: over 60 grams of marijuana along with a scale, 44 Ambien tablets, six oxycodone/hydrochloride tablets, 4.8 grams of crushed Percocet, a broken morphine pill, a marijuana pipe, a pill grinder, needles, a spoon with residue and burn marks on the underside, small medication cups with water, and a lighter. When Respondent was interviewed by law enforcement, she admitted that she had possession of pain medications (Percocet, Ambien and morphine) that were not prescribed to her and that she ingested them orally; that she smokes marijuana one to two times per day; that she sells marijuana to her friends; and that she last ingested heroin three weeks prior. She also admitted that needles located in her bathroom were her patients' and were used to inject heroin.

Respondent was arrested and charged in Racine County case number 2014CF000020 with possession with intent to deliver or manufacture THC, maintaining a drug trafficking place, possession of narcotic drugs, possession of a controlled substance, and possession of drug paraphernalia.

Based on these undisputed facts, I conclude that Respondent engaged in misconduct or unprofessional conduct as defined by Wis. Admin. Code § N 7.04(1) and (2), respectively, in that she violated a law substantially related to the practice of professional nursing, and obtained drugs other than in the course of legitimate practice. As a result of these violations, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(b) and (d) (2011-2012).

### **Appropriate 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 Board's standard five-year impairment order, set forth in the Order section below, 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. *See e.g., In the Matter of Disciplinary Proceedings Against Michael Duane Polivka, R.N.* Order No. LS0702021NUR (April 19, 2007); *In the Matter of Disciplinary Proceedings Against Brian J. Reynolds, R.N.*, Order No. 0002520 (July 11, 2013); *In the Matter*

*of Disciplinary Proceedings Against Denise F. Linder, R.N.*, Order No. 0511141NUR (Mar. 9, 2006). 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. Typically, the stay of the suspension may occur after three months of compliance; however, given Respondent's use of heroin, a highly addictive and dangerous street drug, in addition to her unauthorized use and sale of other drugs, the Division appropriately recommends a six-month period of compliance prior to any stay.

The Division's recommendation is warranted here. Respondent's underlying conduct involved the use and sale of street drugs (marijuana and heroin) and the use of non-prescribed controlled substances (Percocet, Ambien and morphine). Respondent admitted to the use of marijuana and heroin and to using needles that she obtained from patients. In addition, she admitted to taking needles and supplies from patients to use while ingesting illegal drugs. Obtaining and ingesting pain medications which are not prescribed to Respondent and using needles taken from patients in the course of practice to ingest heroin is substantially related to the practice of nursing. Respondent has a serious drug problem, and the public needs protection from Respondent's conduct.

At this juncture, it is not known what, if any, drug treatment Respondent has undergone as a part of her criminal case. Furthermore, it is not known what type of monitoring program, if any, she is under through the criminal case and whether she continues to have access to patients' prescription medications and needles and other supplies. Under these circumstances, the only way to adequately promote the rehabilitation of Respondent and to protect the public from other instances of misconduct and diversion is to impose a standard five-year monitoring agreement. The monitoring agreement contains treatment and monitoring components over at least five years to provide the greatest chance of success for Respondent and limits her access to patients' medications and supplies. This level of discipline will also deter other licensees from engaging in similar conduct which substantially relates to the practice of nursing and patient care.

### **Costs**

The Department has the authority to assess costs pursuant to Wis. Stat. § 440.22. The factors to be considered in assessing full costs are: (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 parties; (4) the respondent's cooperation with the disciplinary process; (5) prior discipline, if any; (6) the fact that the department is a "program revenue" agency, whose operating costs are funded by the revenue received from licenses, 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; and (7) any other relevant circumstances. *See In the Matter of Disciplinary Proceedings Against Elizabeth Buenzli-Fritz*, Order No. LS0802183CHI (Aug. 14, 2008).

The Division requests that Respondent be ordered to pay the full costs of its investigation and of these proceedings. The Division's request is appropriate. The factual allegations and violations were proven and there is no indication that any factual findings or violations were investigated and litigated unnecessarily. With regard to Respondent's cooperation, she initially participated in this proceeding, although intermittently, but then ultimately abandoned this matter. Although Respondent has had no prior disciplinary proceedings against her, the

underlying conduct in this case -- possession, use and dealing prescription medications and street drugs -- is serious.

Finally, given the fact that the Department is a "program revenue" agency, whose operating costs are funded by the revenue received for licensees, fairness here dictates imposing the costs of disciplining Respondent upon Respondent and not on fellow members of the nursing profession who have not engaged in such conduct.

### **ORDER**

Accordingly, IT IS ORDERED that the license of Trista E. Ney, R.N. (license number 158893-30), to practice as a nurse in the State of Wisconsin and her privilege to practice as a nurse in the State of Wisconsin under the authority of another state's license pursuant to the Nurse Licensure Compact are hereby SUSPENDED for an indefinite period and LIMITED as follows:

#### **SUSPENSION**

- A.1. The license of Trista E. Ney, R.N. (license number 158893-30), to practice as a nurse in the State of Wisconsin is SUSPENDED for an indefinite period.
- A.2. The privilege of Respondent to practice as a nurse in the State of Wisconsin under the authority of another state's license pursuant to the Nurse Licensure Compact is also SUSPENDED for an indefinite period.
- A.3. During the pendency of this Order and any subsequent related orders, Respondent may not practice in another state pursuant to the Nurse Licensure Compact under the authority of a Wisconsin license, unless Respondent receives prior written authorization to do so from both the Wisconsin Board of Nursing and the regulatory board in the other state.
- A.4. Respondent shall mail or physically deliver all indicia of Wisconsin nursing licensure to the Department Monitor within 14 days of the effective date of this order. Limited credentials can be printed from the Department of Safety and Professional Services website at <http://dsps.wi.gov/index.htm>.
- A.5. Upon a showing by Respondent of continuous, successful compliance for a period of at least five years with the terms of this Order, including at least 600 hours of active nursing for every year the suspension is stayed, the Board may grant a petition by Respondent under paragraph D.6. for return of full Wisconsin licensure. The Board may, on its own motion or at the request of the Department Monitor, grant full Wisconsin licensure at any time.

#### **STAY OF SUSPENSION**

- B.1. The suspension shall not be stayed for the first six months, but any time after six (6) months the suspension may be stayed upon Respondent providing proof, which is determined by the Board or its designee to be sufficient, that Respondent has been in



compliance with the provisions of Sections C and D of this Order for the most recent six (6) consecutive months.

- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of Sections C or D 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 violation of the same provision or violation of more than one provision. The Board may, in conjunction with any removal of any stay, prohibit Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
  - (a) Mailing to Respondent's last-known address provided to the Department of Safety and Professional Services pursuant to Wis. Stat. § 440.11; or
  - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.
- B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. SPS 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

## CONDITIONS AND LIMITATIONS

### Treatment Required

- C.1. Respondent shall enter into, and shall continue, drug and alcohol treatment with a treater acceptable to the Board or its designee (Treater). Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Respondent shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation and treatment as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as required by this Order, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only with the approval of the

Board or its designee, after receiving a petition for modification as required by D.5., below.

- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in drug and alcohol treatment. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

#### Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collection sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Division to: (a) obtain all specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation with Treater and treatment facilities and personnel, laboratories and collection sites. Copies of these releases shall immediately be filed with the Department Monitor.

#### AA/NA Meetings

- C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholics Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater, but no less than twice per week. Attendance of Respondent at such meetings shall be verified and reported quarterly to Treater and the Department Monitor.

#### Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. 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 Respondent's 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, Treater and the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
- C.10. Respondent shall abstain from all use of over-the-counter medications or other substances (including but not limited to natural substances such as poppy seeds) which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation. It is Respondent's responsibility to educate herself about the medications and substances which may violate this paragraph, and to avoid those medications and substances.

- C.11. Respondent shall report to Treater and 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.
- C.12. 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 and approved by Treater, in which case the drug must be reported as described in paragraph C.11.

#### Drug and Alcohol Screens

- C.13. Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department (Approved Program).
- C.14. 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:
- (a) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
  - (b) 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.
- C.15. The Approved Program shall require the testing of specimens at a frequency of not less than 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.
- C.16. 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.
- C.17. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to do any or all of the following: (a) submit additional specimens; (b) furnish any specimen in a directly witnessed manner; or (c) submit specimens on a more frequent basis.

- C.18. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- C.19. The Approved Program shall submit information and reports to the Department Monitor as directed.

#### Practice Limitations

- C.20. Respondent shall not work as a nurse or other health care provider in a setting in which Respondent has access to controlled substances.
- C.21. Respondent shall practice only under the direct supervision of a licensed nurse or other licensed health care professional approved by the Board or its designee.
- C.22. Respondent shall practice only in a work setting pre-approved by the Board or its designee.
- C.23. Respondent may not work in a home health care, hospice, pool nursing, assisted living, or agency setting.
- C.24. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel at all settings where Respondent works as a nurse or care giver or provides health care, currently or in the future.
- C.25. It is Respondent's responsibility to arrange for written reports from supervisors to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance, and shall include the number of hours of active nursing practice worked during that quarter. If a report indicates poor performance, the Board may institute appropriate corrective limitations, or may revoke a stay of the suspension, in its discretion.
- C.26. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five days of the date of a change.

#### MISCELLANEOUS

##### Department Monitor

- D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent.
- D.3. Every three months, Respondent shall notify the Department Monitor of Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.

Change of Treater or Approved Program by Board

- D.4. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification of Limitations or Termination of Order

- D.5. Respondent may petition the Board on an annual basis for modification of the terms of this Order; however, no such petition for modification shall occur earlier than one year from the date of the initial stay of the suspension. Any petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.
- D.6. Respondent may petition the Board for termination of this Order any time after five years from the date of the initial stay of the suspension. However, no petition for termination shall be considered without a showing of continuous, successful compliance with the terms of the Order, for at least five years.
- D.7. Respondent may petition the Board for a modification of this Order. However, it shall be in the sole discretion of the Board whether to modify this Order or to impose any additional limitations if this Order is modified.

IT IS FURTHER ORDERED that Respondent shall pay 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.

IT IS FURTHER ORDERED that the above-captioned matter is closed as to Respondent Trista E. Ney, R.N.

Dated at Madison, Wisconsin on this 24th day of October, 2014.

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

By: 

Jennifer Nashold  
Administrative Law Judge