

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : DLSC Case No. 15 NUR 276  
NICOLE A. HUNT, R.N., :  
RESPONDENT. :

**0004125**

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ORDER OF SUMMARY SUSPENSION

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The Petition for Summary Suspension of July 6, 2015 was noticed to be presented at 9:00 a.m. or as soon thereafter as the matter could be heard, on July 9, 2015. At that time, Attorney Kim M. Kluck appeared for the Petitioner, Department of Safety and Professional Services, Division of Legal Services and Compliance. Respondent did not appear in person or through counsel.

The Wisconsin Board of Nursing, having considered the sworn July 6, 2015 Petition for Summary Suspension; the Affidavits of Sarah Lynn Hetchler, Elizabeth Beyer, R.N., Mindy Pena Armenta and Investigator Tiffany Brussow; the July 6, 2015 Affidavit of Service of Notice of Presentation and Petition for Summary Suspension of Zachary Hendrickson certifying that a true and accurate copy of the Notice of Presentation of Petition for Summary Suspension, Petition for Summary Suspension and Affidavits of Sarah Lynn Hetchler, Elizabeth Beyer, R.N., Mindy Pena Armenta and Investigator Tiffany Brussow were sent by Federal Express Overnight mail and by electronic mail to Respondent on July 6, 2015; and having heard the arguments of counsel, hereby makes the following:

FINDINGS OF FACT

1. Respondent Nicole A. Hunt, R.N., (dob May 8, 1982), is licensed in the State of Wisconsin as professional nurse, having license number 147603-30, first issued on June 17, 2004 and current through February 29, 2016. Respondent's most recent address on file with the Department is 435 ½ East Main Street, Plymouth, Wisconsin 53073.
2. Sarah Lynn Hetchler (Hetchler) has a tracheostomy and ventilator dependent child who was one of Respondent's pediatric patients in February 2015. Respondent provided home nursing care for the pediatric patient at Hetchler's residence in Little Chute, Wisconsin.
3. On February 7, 2015, Respondent presented to the Hetchler residence to provide nursing cares for the pediatric patient while Hetchler and her husband went to an appointment outside the home. A second professional nurse was in their home at the time providing home nursing care for the other Hetchler child on that date.

4. When Hetchler and her husband returned home, Respondent was trying to hide her eyes from Hetchler and was talking slow. The other professional nurse informed Hetchler that during the time that Hetchler and her husband were absent from their home, Respondent smoked marijuana on the front porch and then returned to provide care for Hetchler's child.

5. Elizabeth Beyer, R.N., is a professional nurse, employed as a private duty nurse to provide home nursing care for a pediatric patient at the Hetchler residence in Little Chute, Wisconsin.

6. On February 7, 2015, Ms. Beyer was at the Hetchler residence providing home nursing care for one of the children at which time Respondent Nicole A. Hunt was also at the residence providing care for the other child.

7. On that date, Respondent told Ms. Beyer she was going to go outside to smoke a cigarette. When Respondent came back in a short time later, her eyes were all squinty and bloodshot. Respondent then placed her bag on the table and when she moved the bag, Beyer noticed a "skunky" odor from the bag. Respondent then proceeded to provide nursing care for the child until the Hetchler parents returned approximately an hour later.

8. Mindy Pena Armenta (Armenta) has a ventilator dependent child who was one of Respondent's pediatric patients in July 2014. Respondent provided home nursing care for Armenta's child at Armenta's home in Fond Du Lac, Wisconsin.

9. On July 11, 2014, Respondent was in Armenta's home working with her ventilator dependent four year old daughter. Armenta had to leave the home for a doctor's appointment and left her daughter alone with Respondent for 1 ½ hours, returning home around 3:30 p.m. When Armenta returned, she found Respondent passed out on her couch, with her bra hanging over the chair and paperwork spread about. Armenta was unable to wake Respondent and found her daughter sleeping in her room, not hooked up to her pulse oximeter. Armenta made several attempts to wake Respondent, but was unsuccessful.

10. During this time, Armenta had to suction her daughter. Even the noise from the suctioning did not wake Respondent. At approximately 6:30 p.m., Respondent finally woke up.

11. On May 21, 2015, Investigator Tiffany Brussow (Brussow), in the course of her duties as an investigator, contacted Respondent at the email address on file with the Department. In the email, she informed Respondent that she was an investigator with the Department and had been assigned on behalf of the Wisconsin Board of Nursing (Board) to investigate a complaint made against her by Sarah Hetchler. Brussow asked that she provide a couple dates and times in the first two weeks in June that she could meet with Brussow at the Department for an interview.

12. As of the date of this Petition for Summary Suspension, Respondent has not replied to Brussow's email.

13. On May 22, 2015, Brussow attempted to contact Respondent at the phone number on file with the Department. Respondent did not answer the phone. The voicemail recording

identified the number as belonging to “Nicole”. Brussow left a voicemail for Respondent indicating that she was an investigator with the Department and had been assigned on behalf of the Board to investigate a complaint made against her. Brussow indicated that she had sent an email the previous day and needed to hear back from her regarding dates and times that she could present herself to the Department for an interview. Brussow informed Respondent that she would be out of the office the following week, but expected her to leave a voicemail or email with proposed dates by the time Brussow returned to the office on June 1, 2015.

14. As of the date of this Petition for Summary Suspension, Respondent has not returned this phone call.

15. On June 4, 2015, Brussow sent a subpoena via certified mail to Respondent’s address on file with the Department. This subpoena was signed by Prosecuting Attorney, Kim Kluck, and required Respondent’s appearance at the Department on June 15, 2015, at 10:30 a.m.

16. Respondent did not show up on June 15, 2015 at the Department.

17. On June 17, 2015, Brussow attempted to contact Respondent at the phone number on file with the Department. Respondent did not pick up the phone. The voicemail recording identified the number as belonging to “Nicole”. Brussow left a voicemail for Respondent indicating that she had attempted to reach her by phone, email and sent a subpoena to her address on file. Brussow informed her that she failed to show up to the Department for the subpoenaed interview. Brussow asked that she call her back and propose dates and times that she could present herself to the Department for an interview.

18. As of the date of this Petition for Summary Suspension, Respondent has not returned this call.

19. On June 25, 2015, Brussow received a certified copy of a criminal complaint and judgment of conviction from the Sheboygan County clerk of court in case number 2014CM941. According to the sworn complaint of Sgt. Eugene Wielgosh, a Sheboygan County Sheriff’s Department deputy made contact with Respondent on State Highway 32 on October 9, 2014. The deputy subsequently conducted a search of Respondent’s vehicle which revealed a glass pipe which had the odor of burnt marijuana and a bottle of medication which did not belong to Respondent. Respondent pled guilty to and was convicted of one (1) count of possession of drug paraphernalia on January 29, 2015.

20. Respondent, by practicing nursing while under the influence of alcohol, illicit drugs, or while impaired by the use of legitimately prescribed pharmacological agents or medications, as set out in paragraphs 4 and 7, above, has committed unprofessional conduct, as defined by Wis. Admin. Code § N 7.03(6)(e) and is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b), (c) and (d).

21. Respondent, by, after a request of the board, failing to cooperate in a timely manner, with the board’s investigation of a complaint filed against a license holder, as set out in paragraphs 11-18, above, has committed unprofessional conduct, as defined by Wis. Admin. Code § N 7.03(1)(c) and is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

22. Respondent, by obtaining, possessing or attempting to obtain or possess a drug without lawful authority, as set out in paragraph 19, above, has committed unprofessional conduct, as defined by Wis. Admin. Code § N 7.03(8)(e) and is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

23. Respondent, by being negligent which is a substantial departure from the standard of care ordinarily exercised by a competent licensee, as set out in paragraphs 9 and 10, above, has committed unprofessional conduct, as defined by Wis. Admin. Code § N 7.03(1)<sup>1</sup> and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(c) and (d)<sup>2</sup>.

24. Respondent, by an act or omission demonstrating a failure to maintain competency in practice and methods of nursing care, as set out in paragraphs 9 and 10, above, has committed unprofessional conduct, as defined by Wis. Admin. Code § N 7.03(1)(b)<sup>3</sup> and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(c) and (d)<sup>4</sup>.

### CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to Wis. Stat. § 441.07 and has authority to summarily suspend the license and registration of Respondent Nicole A. Hunt, R.N., to practice professional nursing in the State of Wisconsin, pursuant to Wis. Stat. § 227.51(3) and Wis. Admin. Code ch. SPS 6.

2. Based on the sworn Petition and affidavits of Sarah Lynn Hetchler, Elizabeth Beyer, R.N., Mindy Pena Armenta and Investigator Tiffany Brussow, there is probable cause to believe that it is necessary to suspend the license and registration of Respondent Nicole A. Hunt, R.N., immediately to protect the public health, safety or welfare, based upon the following conduct by the Respondent:

- a. Having slow speech and bloodshot/squinty eyes while on duty as a home care nurse with the odor of marijuana emanating from her purse;
- b. Providing cares for a ventilator dependent child after evidently ingesting marijuana;
- c. Being unconscious for several hours while on duty to care for a ventilator dependent child;
- d. Failing to respond to Department investigative requests and subpoenas; and
- e. Possessing a glass pipe which had the odor of burnt marijuana.

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<sup>1</sup> This reference is to Wis. Admin. Code § N 7.03 refer to the code as it existed before August 1, 2014.

<sup>2</sup> Wis. Stat. (2013-2014).

<sup>3</sup> This reference is to Wis. Admin. Code § N 7.03 refer to the code as it existed before August 1, 2014.

<sup>4</sup> Wis. Stat. (2013-2014).

3. It is imperatively required and necessary to suspend the license and registration of Respondent Nicole A. Hunt, R.N., to practice professional nursing immediately to protect the public health, safety and welfare.

ORDER

The license and registration of Respondent Nicole A. Hunt, R.N., to practice professional nursing in the State of Wisconsin is summarily suspended until the effective date of a final decision and order issued in the disciplinary proceeding against Respondent Nicole A. Hunt, R.N., unless otherwise ordered by the Board.

A formal complaint to be filed with the Division of Hearings and Appeals, alleging that Respondent has committed unprofessional conduct is attached.

Respondent Nicole A. Hunt, R.N., is hereby notified of her right, pursuant to Wis. Admin. Code § SPS 6.09, to request a hearing to show cause why this summary suspension order should not be continued and is further notified that any request for a hearing to show cause should be filed with the Wisconsin Board of Nursing, 1400 East Washington Avenue, Post Office Box 8366, Madison, Wisconsin 53708-8366.

In the event that Respondent Nicole A. Hunt, R.N., requests a hearing to show cause why the summary suspension should not be continued, that hearing shall be scheduled to be heard on a date within 20 days of receipt by the Board of Respondent's request for hearing, unless Respondent requests or agrees to a later time for the hearing.

WISCONSIN BOARD OF NURSING

By:   
A Member of the Board

7-9-15  
Date