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**Before the
State Of Wisconsin
Board of Nursing**

In the Matter of Disciplinary Proceedings Against
Catherine M. Stuempges, R.N., Respondent

FINAL DECISION AND ORDER

Order No. 0004142

Division of Legal Services and Compliance Case No. 14 NUR 407

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 9th day of July, 2015.

A handwritten signature in cursive script, appearing to read "Sheryl Krause".

Member
Board of Nursing



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

In the Matter of Disciplinary Proceedings Against
Catherine M. Stuempges, R.N., Respondent

DHA Case No. SPS-15-0037
DLSC Case No. 14 NUR 407

PROPOSED DECISION AND ORDER

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

Catherine M. Stuempges, R.N.
43945 Skogman Lake Road
Cambridge, MN 55008

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 (Department), Division of Legal Services and Compliance (Division), filed a formal Complaint against Respondent Catherine M. Stuempges, R.N. (Respondent), alleging that Respondent had disciplinary action through final board adjudication taken against her license to practice nursing in another jurisdiction, in violation of Wis. Admin. Code § N 7.04(7).¹ The Division served Respondent on April 3, 2015 by sending a copy of the Notice of Hearing and Complaint to her last known address on file with the Department. Respondent failed to file an Answer to the Complaint, as required by Wis. Admin. Code § SPS 2.09, and failed to appear at

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

the telephone prehearing conference held before the undersigned Administrative Law Judge (ALJ) on May 4, 2015.

The Division moved 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 appear at the prehearing conference, the ALJ issued a Notice of Default and Order against Respondent. Consistent with the notice, the Division filed a recommended proposed decision and order on May 6, 2015.

FINDINGS OF FACT

Facts Related to the Alleged Violations

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

1. Respondent Catherine M. Stuempges, R.N. (DOB April 18, 1962), is licensed in the State of Wisconsin as a professional nurse, having license number 201632-30, first issued on June 20, 2014 and current through February 29, 2016.

2. Respondent's most recent address on file with the Department is 43945 Skogman Lake Road, Cambridge, Minnesota 55008.

3. On July 3, 2014, the Minnesota Board of Nursing (Minnesota Board) issued a Consent Order imposing discipline against Respondent's Minnesota license to practice professional nursing. The discipline was based on discrepancies in Respondent's controlled substance documentation in 2012. Specifically, Respondent failed to properly document the administration or wasting of three Ativan tablets and documented administration of a dose of Dilaudid before the time she withdrew it from the automated medication dispensing system. The Consent Order suspended Respondent's license but stayed the suspension as long as she complied with the following requirements:

- a. Completion of a one-on-one consultation regarding accounting for, handling, administering and documentation of controlled substances. Respondent shall comply with any recommendations from the consultant for additional education. Respondent shall prepare a typewritten report following completion of the consultation and submit self-reports to the Minnesota Board every three (3) months;
- b. Respondent must engage in individual therapy with a mental health professional at least twice a month during the time the Minnesota Order is in effect and cause quarterly reports to be submitted to the Minnesota Board;
- c. Respondent shall cause to be submitted to the Minnesota Board a report from any health care provider whom Respondent consults for physical

health, mental health, or chemical dependency treatment during the time the Order is in effect. Reports shall be submitted on a quarterly basis;

- d. Respondent must report all new prescriptions for controlled or abusable substances to the Board. A report from any and all physicians and dentists and any other health professional who prescribe mood-altering chemicals to Respondent during the period the Minnesota Order is in effect (which shall include name, dosage, frequency and purpose of the mood-altering chemicals with confirmation that the prescribing health professional has been informed of Respondent's chemical dependency history);
- e. Respondent shall undergo a chemical dependency evaluation performed by a chemical dependency treatment professional within 60 days, if directed to do so by Board staff;
- f. Respondent shall comply with any recommendations for additional evaluation and treatment made by the chemical dependency evaluator;
- g. Respondent shall abstain from all controlled and/or abusable mood-altering chemical, unless expressly prescribed in writing by a physician, dentist, or other authorized health care professional who is providing care and treatment to Respondent;
- h. Respondent shall submit to laboratory hair, blood, and urine screenings to determine the presence or absence of alcohol or drugs, as directed by the Minnesota Board; and
- i. Respondent shall complete and sign health records waivers and chemical dependency waivers to allow representatives of the Board to discuss Respondent's case with and to obtain written evaluations and reports and copies of all Respondent's health, mental health, and chemical dependency records from her physician, therapist, chemical dependency counselor or others from whom Respondent has sought or obtained support or assistance.

4. Ativan is a brand name for lorazepam. Pursuant to Wis. Stat. § 961.20(2)(er), lorazepam is a schedule IV controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(3).

5. Dilaudid is a brand name for hydromorphone. Pursuant to Wis. Stat. § 961.16(2)(a) 8, hydromorphone is a schedule II controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(2).

Facts Related to Default

6. The Complaint and Notice of Hearing in this matter were served on Respondent on April 3, 2015, by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08. The Notice of Hearing informed Respondent: “If you do not provide 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. In addition, the Board 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 May 4, 2015. Notice of the prehearing conference was sent to both parties on April 23, 2015, with instructions that Respondent provide the ALJ with a telephone number at which she could be reached for the conference no later than April 29, 2015. The Notice further informed Respondent: “A respondent’s failure to appear at a scheduled conference or hearing may result in default judgment being entered against the respondent.”

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

10. At the prehearing conference on May 4, 2015, the Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c).

11. On May 4, 2015, the ALJ issued a Notice of Default and Order which concluded that Respondent was in default and required the Division to serve no later than May 13, 2015 a recommended proposed decision and order.

12. The Division filed its recommended proposed decision and order on May 6, 2015.

13. Respondent did not file a response to either the Division’s submission or to the ALJ’s Notice of Default and Order.

DISCUSSION AND CONCLUSIONS OF LAW

Default

As stated in the May 4, 2015 Notice of Default and Order, Respondent is in default for failing to file an Answer to the Complaint and failing to appear at the prehearing conference held on May 4, 2015. *See* Wis. Admin. Code §§ SPS § 2.09(4) and 2.14; Wis. Admin. Code § HA 1.07(3). Accordingly, an order may be entered against Respondent on the basis of the Complaint and other evidence. *See* Wis. Admin. Code § SPS 2.14; Wis. Admin. Code § HA 1.07(3).

Violations of Wisconsin Statute and Administrative Code

Following an investigation and disciplinary hearing, if the Wisconsin Board of Nursing (Board) determines that a nurse has violated subchapter I of Wis. Stat. ch. 441 or any rule promulgated by Board under that subchapter, or has committed misconduct or unprofessional conduct, it may reprimand the nurse and may revoke, limit, suspend or deny a renewal of a nursing license. Wis. Stat. § 441.07(1g)(b) and (d), respectively.

The phrase “misconduct or unprofessional conduct” as used in Wis. Stat. § 441.07 means “any practice of behavior which violates the minimum standards of the profession necessary for the protection of the health, safety, or welfare of a patient or the public,” and includes “[h]aving disciplinary action through final board adjudication taken against one’s license in another jurisdiction.” Wis. Admin. Code § N 7.04(7).

There is no dispute that Respondent had disciplinary action taken against her by a final order of the Minnesota Board. As a result, she engaged in misconduct or unprofessional conduct and is therefore subject to discipline under Wis. Stat. § 441.07(1g)(b) and (d).

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 Division recommends that Respondent be reprimanded and that her license and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact be limited to comply with the monitoring and treatment requirements of the Minnesota Consent Order, as set forth in the Order section below.

The Division’s recommendation is warranted. Respondent’s underlying conduct in Minnesota involved substandard nursing practice in documentation and possible narcotic diversion. The conditions of the Minnesota Board’s Order reflect concerns about Respondent’s handling, administering and documentation controlled substances; possible chemical dependency and/or abuse of mood-altering drugs. Requiring Respondent to comply with the counseling and drug monitoring terms of the Minnesota Order, as set forth below, will best serve to promote Respondent’s rehabilitation and protect the public and deter others from engaging in such conduct.

In addition, the discipline recommended by the Division is consistent with prior Board decisions. In *In the Matter of Disciplinary Proceedings Against Jodi L. Oman, R.N.*, Order No. 0000076 (Feb. 25, 2010), a nurse was found to have had disciplinary action taken against her license in another jurisdiction, Minnesota. The Minnesota Board placed conditions on the nurse’s Minnesota license based on her poor communications with staff, poor documentation, medication administration errors, failure to waste narcotics properly and discrepancies regarding handling of narcotics. The Minnesota Board Order’s conditions included the following requirements: that she complete continuing education on the topics of medication errors,

documentation, professional accountability and critical thinking skills; that she submit a written report to the Minnesota Board regarding her learning in those areas; that she submit reports to the Minnesota Board on a quarterly basis; and that she provide all nursing employers with a copy of the Minnesota Order. Based on the Minnesota Board's action, the Wisconsin Board reprimanded her and limited her license with the following requirements: that she comply with all conditions and limitations placed on her Minnesota license; that she provide copies of all reports filed with the Minnesota Board to the Wisconsin Department Monitor; and that her license be suspended if a work report reveals that she is not practicing nursing with reasonable skill and safety or has violated any provisions of the Wisconsin Order.

Likewise, in *In the Matter of Disciplinary Proceedings Against Stacey E. Fjordbak, R.N.*, Order No. 0003266 (June 12, 2014), a nurse was found to have had disciplinary action taken against her license in another jurisdiction, Minnesota. The Minnesota Board placed conditions on the nurse's Minnesota license based on her poor communications with co-workers and patients. The Minnesota Board Order's conditions included requirements that she undergo evaluation and monitoring (if indicated) by the Health Professional Services Program with regard to her mental health and chronic pain issues. In addition, the Minnesota Board ordered that she receive remediation in professional communication and in creating an environment of relationship-based care with patients. Based on the Minnesota Board's action, the Wisconsin Board reprimanded her and limited her license with the following requirements: that she comply with all conditions and limitations placed on her Minnesota license; that she provide a copy of the consultant report to the Department; that she provide copies of all reports filed with the Minnesota Board to the Department; and that she notify the Board of any changes to her Minnesota Consent Order within ten days of the change.

Based on the factors in *Aldrich*, the facts of this case and the prior Board decisions in *Oman* and *Fjordbak*, the discipline recommended by the Division is appropriate.

Costs

The Division has the authority to assess costs pursuant to Wis. Stat. § 440.22. The Division requests that Respondent be ordered to pay the full costs of this investigation and of these proceedings. The factors to be considered in assessing 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 prosecutor; (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, D.C.*, LS0802183CHI (Aug. 14, 2008).

Based on the criteria delineated in the *Buenzli-Fritz* decision and the facts of this case, Respondent should be assessed the full amount of recoverable costs in this case.

ORDER

Accordingly, IT IS ORDERED that Respondent Catherine M. Stuempges, R.N. (license no. 201632-30), is REPRIMANDED and that her license to practice as a professional nurse in the State of Wisconsin and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact are limited as follows:

1. Respondent shall comply with all conditions placed on her Minnesota license.
2. Respondent shall cause copies of all reports filed with the Minnesota Board to be filed with the Department Monitor within five days of filing in Minnesota.
3. Respondent shall have the consultant report required by the Minnesota Order, submitted to the Department within 15 days of the date of final action by the Board.
4. Respondent shall notify the Department of any changes to her Minnesota Consent Order within 10 days of the change.
5. Respondent shall submit quarterly self-reports to the Department regarding her progress with the Minnesota Consent Order.
6. Respondent shall complete and sign health records waivers and chemical dependency waivers to allow representatives of the Board to discuss Respondent's case with and to obtain written evaluations and reports and copies of all Respondent's health, mental health, and chemical dependency records from her physician, therapist, chemical dependency counselor or others from whom Respondent has sought or obtained support or assistance.

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:

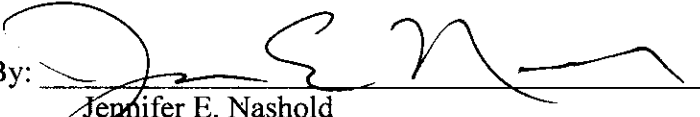
Department Monitor
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

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

Dated at Madison, Wisconsin on June 5, 2015.

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

By: _____


Jennifer E. Nashold
Administrative Law Judge