

## 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 Disciplinary Proceedings Against  
Sarah A. Trebbe, R.N., Respondent

FINAL DECISION AND ORDER

Order No. 0004810

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**Division of Legal Services and Compliance Case No. 15 NUR 115**

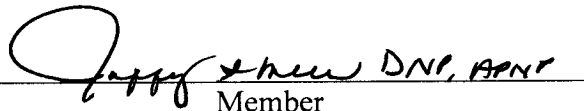
The State of Wisconsin, Board of Nursing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

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 14<sup>th</sup> day of July, 2016.

  
Member  
Board of Nursing



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

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In the Matter of Disciplinary Proceedings Against  
Sarah A. Trebbe, R.N., Respondent

DHA Case No. SPS-16-0025  
DLSC Case No. 15 NUR 115

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**PROPOSED DECISION AND ORDER**

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

Sarah A. Trebbe, R.N.  
411 W. Montclair Avenue  
Glendale, WI 53217

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 Sarah A. Trebbe, R.N. (Respondent), alleging that Respondent failed to cooperate in a timely manner with the Wisconsin Board of Nursing's (Board) investigation of a complaint, in violation of Wis. Admin. Code § N 7.03(1)(c).

On March 31, 2016, the Administrative Law Judge (ALJ) issued a Notice of Telephone Prehearing Conference which set a telephone hearing conference for April 14, 2016. Respondent failed to appear at the telephone prehearing conference, whereupon the Division moved for default judgment based on Respondent's failure to appear and failure to file an Answer to the

Complaint. On April 14, 2016, the ALJ issued a Notice of Default and Order against Respondent and ordered that the Division file a recommended proposed decision and order no later than April 28, 2016. On April 26, 2016, the Division timely filed its submission.

## FINDINGS OF FACT

### Facts Related to the Alleged Violations

Findings of Fact 1-6 are taken from the Division's Complaint against Respondent filed in this matter.

1. Respondent Sarah A. Trebbe, R.N. (D.O.B. April 25, 1984), is licensed in the State of Wisconsin as a professional nurse, having license number 192403-30, first issued on September 5, 2012 and current through February 29, 2016.

2. Respondent's most recent address on file with the Department is 411 West Montclair Avenue, Glendale, Wisconsin 53217.

3. On February 16, 2015, the Department received a complaint about an incident in which a patient sustained an injury at a medical facility (Facility) in Milwaukee, Wisconsin.

4. The incident occurred in approximately June 2014 at which time Respondent was employed at the Facility and participated in the patient's care.

5. On April 6, 2015, a Department investigator sent a letter to Respondent to her address on file with the Department, requesting a written statement about her knowledge of the incident.

6. Respondent failed to provide a written statement at any time following that request.

7. *Prior Discipline.* On April 9, 2015, the Board issued an order imposing discipline on Respondent for diversion of pain medications (Order No. 3885). The Board suspended Respondent's license indefinitely until Respondent could demonstrate compliance with drug monitoring, attendance at AA/NA meetings and other drug treatment conditions. Respondent's license remains suspended due to her non-compliance with the drug monitoring, attendance at AA/NA meetings and drug treatment under Order No. 3885.

### Facts Related to License Status

8. Respondent's license expired on February 29, 2016 and, as of the date of this decision and order, has not been renewed. Respondent retains the right to renew her license until February 27, 2021 upon payment of a fee according to Wis. Stat. § 440.08(3). Although Respondent's license has expired, the Board retains jurisdiction and can impose discipline in this matter.

## Facts Related to Default

9. The Complaint and Notice of Hearing in this matter were served on Respondent on April 11, 2016, by both certified and first class mail, consistent with Wis. Admin. Code § SPS 2.08. The Notice of Hearing instructed Respondent: "If you do not provide a proper Answer within twenty (20) days, you will be found 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." The Division mailed the Notice of Hearing and Complaint to the address on file with the Department via first class and certified mail on March 11, 2016. On March 12, 2016, "Nancy Trebbe" signed the certified return receipt for the Complaint and Notice sent to 411 West Montclair Avenue, Glendale, Wisconsin 53217.

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

11. Following expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for April 14, 2016. Notice of this prehearing conference was sent to both parties, with instructions that Respondent provide the ALJ with a telephone number at which she could be reached for the conference no later than April 11, 2016. The Notice instructed Respondent: "The Respondent's failure to appear at the scheduled conference or hearing may result in default judgment being entered against the Respondent."

12. Respondent failed to provide a telephone number, as required by Wis. Admin. Code § HA 1.07(3)(c), and could not be reached for the prehearing conference.

13. On April 14, 2016, the prehearing conference was held. Respondent did not appear. 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.

14. On April 14, 2016, the ALJ issued a Notice of Default and Order which found Respondent to be in default and required the Division to file and serve no later than April 28, 2016, a recommended proposed decision and order.

15. The Division timely filed its initial recommended proposed decision and order. Respondent has not filed a response to either the Notice of Default and Order or to the Division's most recent submission.

## DISCUSSION AND CONCLUSIONS OF LAW

### Default

As stated in the April 14, 2016 Notice of Default and Order, Respondent is in default for failing to file an Answer to the Complaint and failing to appear at the telephone conference held on April 14, 2016. As a result, an order may be entered against her on the basis of the Complaint

Complaint and other evidence. *See* Wis. Admin. Code § SPS 2.14; Wis. Admin. Code § HA 1.07(3)(b) and (c).

#### Violations of Wisconsin Statutes and Administrative Code

Following an investigation and disciplinary hearing, if the Board determines that a nurse has violated subchapter I of Chapter 441 of the Wisconsin Statutes or any rule adopted by the Board under the authority of that subchapter or that the nurse has engaged in unprofessional conduct, it may reprimand the nurse or may revoke, limit, suspend or deny a renewal of the nurse's license. Wis. Stat. § 441.07(1g)(b) and (d).

Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § N 7.03(1)(c), by, after a "request by the board, failing to cooperate in a timely manner, with the board's investigation of a complaint filed against a license holder."<sup>1</sup> As a result of the above violation, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

#### 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 requests that Respondent's right to renew her license be suspended indefinitely until she completes four hours of continuing education in nurse practice acts. Based on the following, I agree that this discipline is appropriate, along with the additional requirement that she respond to the Board's request for information.

Respondent's failure to cooperate with the Board's investigation hampers the Board's attempts to determine whether Respondent or others may be involved in an additional underlying violation involving patient safety. Given Respondent's lack of cooperation with this action, the Board has been unable to complete its investigation regarding patient treatment. Respondent's conduct is serious. It thwarts the Board's ability to protect the public and demonstrates a disregard for the Board's legitimate authority with respect to ensuring that those who practice nursing do so in a safe and competent manner.

In addition to the instant violation, Respondent has been disciplined on a prior occasion. On April 9, 2015, the Board issued an order imposing discipline on Respondent for diversion of pain medications. The Board suspended Respondent's license indefinitely until Respondent could demonstrate compliance with drug monitoring, attendance at AA/NA meetings and other drug treatment conditions. Respondent's license remains suspended as of the date of this decision and order due to her non-compliance with the drug monitoring, attendance at AA/NA meetings and drug treatment under Order No. 3885.

Respondent's license has expired and, as of the date of this decision and order, has not been renewed. Respondent retains the right to renew her license upon payment of a fee

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<sup>1</sup> There is a rebuttable presumption that a credential holder who takes longer than 30 days to respond to a request of the Board has failed to cooperate in a timely manner.

according to Wis. Stat. § 440.08(3). Although Respondent's license has expired, the Board retains jurisdiction and can impose discipline in this matter.

Absent a willingness to cooperate with the Board's investigation and these proceedings, the only way to protect the public is to suspend Respondent's right to renew her license until she responds to the Board's request for information and successfully completes four hours of continuing education in nurse practice acts.

### 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. Factors which may be considered in assessing costs include: (1) the number of counts charged, contested and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the 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). It is not mandatory that all or any of these factors be considered and it is within the Board's discretion to determine what weight, if any, to give any factors considered.

Particularly relevant are the following facts. The factual allegations were deemed admitted, the Division has proven the count alleged and there is no argument that any factual findings or litigation were unnecessary. Respondent's conduct is serious in nature and her failure to participate in these proceedings negates any mitigation of imposing the full costs of this matter. Moreover, as stated, Respondent has been disciplined by the Board on a prior occasion and has remained noncompliant with the Board's orders in that case. Finally, it would be unfair to impose the costs of pursuing discipline in this matter on those licensees who have not engaged in misconduct. Therefore, it is appropriate for Respondent to pay the full costs of the investigation and of these proceedings.

### ORDER

Accordingly, IT IS ORDERED that Respondent Sarah A. Trebbe, R.N.'s, right to renew her license (license number 192403-30) to practice professional nursing, and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, be suspended indefinitely until she responds to the Board's request for information set forth above and successfully completes four hours of continuing education in nurse practice acts.

IT IS FURTHER ORDERED that should Respondent petition the Board for a stay of suspension of her right to renew her license within five years of the expiration, she must first pay the full costs in this matter, respond to the Board's request for information and submit proof of successful completion of the ordered education prior to the Board's consideration of any

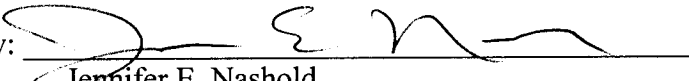
renewal application. After the amount of costs is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to:

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 of the Final Decision and Order in this matter is signed by the Board.

Dated at Madison, Wisconsin on May 16, 2016.

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 E. Nashold  
Administrative Law Judge