

## 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  
Katelyn S. Kratochwill, L.P.N., Respondent

FINAL DECISION AND ORDER

Order No. **0005843**

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**Division of Legal Services and Compliance Case No. 16 NUR 488**

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 9<sup>th</sup> day of August, 2018.

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

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  
Katelyn S. Kratochwill, L.P.N., Respondent

DHA Case No. SPS-18-0019  
DLSC Case No. 16 NUR 488

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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:

Katelyn S. Kratochwill, L.P.N.  
2019 King Street  
Janesville, WI 53548

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 Yolanda McGowan  
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 on March 29, 2018, when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed a formal Complaint against Respondent Katelyn S. Kratochwill, L.P.N. (Respondent), alleging that Respondent engaged in unprofessional conduct by obtaining, possessing or attempting to obtain or possess a drug without lawful authority, in violation of Wis. Admin. Code § N 7.03(8)(e).

The Division served Respondent on March 29, 2018, by sending a copy of the Notice of Hearing and Complaint to her last known address on file with the Department (2259 Tower Drive, Stoughton, Wisconsin 53589), via certified and regular mail. Respondent failed to file an Answer to the Division's Complaint. On April 4, 2018, the documents sent via certified mail

were returned to the Department. Tracking on the documents showed the U.S. Postal Service mailed the documents to the return address on the envelope, and therefore, Respondent never received the certified mailing. On the same date, April 4, 2018, Respondent was again served the Notice of Hearing and Complaint, both dated March 29, 2018, by sending them certified mail to her last known address on file with the Department. They were not returned to the Department. Respondent did not file an Answer to the Complaint.

At the expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for April 30, 2018. Respondent failed to provide a telephone number or appear at the conference. The Division provided a telephone number for Respondent, at which number the ALJ left a voicemail message requesting a return call. Later that day, Respondent contacted the ALJ, and the ALJ reconvened the conference with the parties. Respondent denied receiving the Department's Complaint or notice of the prehearing conference because she was no longer at the address to which they were sent. Respondent provided a new address (2019 King Street, Janesville, Wisconsin 53548) and email address. The ALJ extended the deadline to May 14, 2018 for Respondent to file her Answer. An additional pre-hearing conference was scheduled for May 22, 2018. The ALJ sent notice of the May 22, 2018 conference to both parties and informed Respondent that failure to Answer or appear may result in default judgment being entered against her. The Department re-sent the Complaint and Notice of Hearing to Respondent at the newly provided address and email address. Respondent again failed to file an Answer.

The ALJ attempted to call Respondent for the May 22, 2018 prehearing conference. Respondent did not answer the call, nor did she return the ALJ's telephone call as instructed by the ALJ in a voicemail message left for Respondent. The prehearing conference was held with the Division, whereupon the Division moved for default judgment based upon Respondent's failure to appear and failure to file an Answer to the Complaint.

On May 22, 2018, the ALJ issued a Notice of Default and Order against Respondent and ordered that the Division file a recommended proposed decision and order by June 6, 2018. The Division timely filed its submission.

## FINDINGS OF FACT

### Facts Related to the Alleged Violations

Findings of Fact 1-8 are taken from the Division's Complaint filed against Respondent in this matter.

1. Respondent Katelyn S. Kratochwill, L.P.N., (DOB November 23, 1988) is licensed by the State of Wisconsin as a professional nurse, having license number 316609-31, first issued on March 11, 2013, and current through April 30, 2019.

2. Respondent's most recent address on file with the Department is 2259 Tower Drive, Stoughton, Wisconsin 53589.<sup>1</sup>

3. On July 14, 2016, two medication technicians informed their supervisor that Respondent was documenting administration of narcotic medications to residents that did not ask for pain medication.

4. Based on this information, an internal investigation was started and patient charts were reviewed. The Center discovered several incidents in which Respondent altered the number of pills remaining on residents' controlled drug use forms and altered other employees' signatures, including:

- a. On July 8, 2016, Nurse A had signed that he destroyed Resident M.R.'s hydrocodone. Nurse A confirmed this was not his signature and he did not destroy this medication.
- b. On July 14, 2016, a medical assistant (MA) verified that she only administered one oxycodone to Resident L.G. the day before. However, on Resident L.G.'s oxycodone use record, the one had been written over to make it a two.

5. On November 15, 2017, Respondent presented to the Department for an investigative interview to discuss several discrepancies at the Center. Respondent admitted to diverting the medication.

6. Respondent also admitted to crossing out numbers on the record and re-writing them to make the counts reflect the number of pills remaining.

7. Respondent admitted to the Department investigator that she was addicted to narcotics.

8. Respondent has been diagnosed with severe opioid use disorder and opioid withdrawal.

#### Facts Related to Default

9. The Notice of Hearing and Complaint in this matter were served on Respondent on March 29, 2018, by both certified and regular mail, and again on April 4, 2018 by certified 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."

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

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<sup>1</sup> During a telephone prehearing conference, Respondent reported her current address as 2019 King Street, Janesville, Wisconsin 53548.

11. Following expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for April 30, 2018. 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 25, 2018. 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, and initially, could not be reached for the prehearing conference.

13. Respondent later called the ALJ and the prehearing conference was held with Respondent and the Division. Respondent provided a new address and email address, and was given until May 14, 2018 to file an Answer to the Complaint. An additional prehearing conference was scheduled for May 22, 2018. Notice of the May 22, 2018 conference was sent to both parties and Respondent was informed that failure to Answer or appear may result in a default judgment being entered against her. Respondent again failed to file an Answer.

14. On May 22, 2018, 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.

15. On May 22, 2018, the ALJ issued a Notice of Default and Order which required the Division to file and serve, no later than June 6, 2018, a recommended proposed decision and order.

16. The Division timely filed its recommended proposed decision and order.

17. Respondent did not file a response to either the Notice of Default and Order or to the Division's submission.

#### DISCUSSION AND CONCLUSIONS OF LAW

The Wisconsin Board of Nursing (Board) has jurisdiction over this matter pursuant to Wis. Stat. § 441.07.

#### Default

As stated in the May 22, 2018, Notice of Default and Order, Respondent is in default for failing to file an Answer to the Division's Complaint and failing to appear at the telephone conference held on May 22, 2018. *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

Following an investigation and disciplinary hearing, the Wisconsin Board of Nursing (Board) may revoke, limit, suspend or deny renewal of a license of a professional nurse if it finds that the licensee has engaged in “[o]ne or more violations of this subchapter or any rule adopted by the board under the authority of this subchapter” or in “[m]isconduct or unprofessional conduct.” Wis. Stat. § 441.07(1g)(b) and (d), respectively.

Respondent violated Wis. Admin. Code § N 7.03(8)(e) by obtaining, possessing or attempting to obtain or possess a drug without lawful authority. Respondent admitted to diverting hydrocodone<sup>2</sup> and oxycodone<sup>3</sup> from patients on July 8, 2016 and July 14, 2016, and to altering the number of pills remaining on residents’ controlled drug use forms by crossing out numbers on the record and re-writing them to make the counts reflect the number of pills remaining. Respondent did not have permission from the patients or the hospital to divert the medication.

## 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 an indefinite suspension of Respondent’s license and associated privileges, along with limitations on her license in the event her license is reinstated. The discipline recommended by the Division, and adopted in the Order section below, is warranted.

Respondent’s license to practice nursing should be suspended indefinitely in order to protect the public and deter other licensees from similar conduct. Respondent should only be able to practice nursing again when she is safe to do so. To promote the safety of the public and Respondent’s rehabilitation, the discipline imposed should require that Respondent abstain not only from drugs for which she does not have a prescription, but also from alcohol since alcohol could be used as a substitute for controlled substances. Correspondingly, the discipline should also include testing for alcohol and drug use. Respondent should also provide to the Department Monitor a copy of all over-the-counter medications and prescribed medications she takes because they sometimes contain alcohol or other substances that her drug testing may report.

Respondent should also be required to seek treatment, show the final order in this matter to her treater and complete all treatment the treater recommends. It is not known if Respondent has obtained any treatment in the past. It is necessary to monitor her current and future treatment in order to ensure she complies with treatment and that her treatment is successful. Respondent should be required to keep releases on file with all treaters so her treatment and compliance can be adequately monitored by the Board. Respondent should be required to attend alcoholics/narcotics anonymous meetings or an approved equivalent program at least twice a

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<sup>2</sup> Pursuant to Wis. Stat. § 961.16(2)(a)7, hydrocodone is a schedule II controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(2).

<sup>3</sup> Pursuant to Wis. Stat. § 961.16(2)(a)11, oxycodone is a schedule II controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(2).

week and report this attendance quarterly to ensure Respondent has all the support necessary for successful treatment.

Respondent should practice only under direct supervision and in a pre-approved work setting to ensure she does not work while impaired. Respondent should not be allowed to work settings where she has access to controlled substances, or in-home health care, hospice, pool nursing, assisted living, agency or in a correctional setting because such work setting will not provide adequate supervision. Respondent should be required to provide a copy of the order to all her employers. Respondent should arrange for quarterly work reports so her employer can report to the Board if Respondent has any negative behaviors or if Respondent appears to be complying and is safe to practice. Respondent should be required to report any change in employment, status, residence, address or telephone number to ensure she can be contacted by monitoring if needed. All of these limitations combined will ensure Respondent is being properly monitored and progressing in her rehabilitation.

To protect the public, Respondent should be required to provide the final order in this matter to all nursing employers so that she is adequately monitored and so any unusual behavior can be brought to the attention of the Board or its designee. Additionally, Respondent should be restricted to work in Wisconsin pursuant to the Nurse Licensure Compact and the Enhanced Nurse Licensure Compact during the pendency of the limitations to ensure successful monitoring. Respondent's suspension will ensure Respondent is successfully obtaining treatment before she is able to return to work. The work reports, not working in settings with access to controlled substances and direct supervision will also ensure Respondent is practicing safely and not placing patients at risk when she is able to return to work.

The discipline imposed in this case is also consistent with prior Board decisions. For example, in *In the Matter of Disciplinary Proceedings Against Kimberly A. Anderson, R.N.*, Order 0003386 (Sept. 11, 2014),<sup>4</sup> Kimberly Anderson was a professional nurse working in a hospital. Dispensing reports indicated that she had dispensed morphine sulfate<sup>5</sup> for Patient A on two separate occasions and for Patient B on two separate occasions. Anderson was not assigned to the care of either patient when she dispensed the medications and did not document administering the medication to either patient. Anderson admitted to diverting the morphine sulfate for personal use and admitted having an addiction to Percocet.<sup>6</sup> The Board suspended her license for an indefinite period and limited her license. The suspension could not be stayed for three months. Her license limitations included enrolling and participating in a drug monitoring program with random drug testing of not less than 49 times per year; participating in treatment; providing a copy of the order to her employer; complying with treatment recommendations; keeping releases on file with all treatment facilities; attending AA/NA meetings at least twice a week; abstaining from use of alcohol and from controlled substances except when prescribed; notifying the Department Monitor of all prescribed medications as well as use of any over-the-counter medications; practicing under direct supervision; obtaining pre-approval of work settings prior to beginning employment (including not working in a setting where she has access to

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<sup>4</sup> A copy of this order can be found at <https://online.drl.wi.gov/decisions/2014/ORDER0003386-00010192.pdf>.

<sup>5</sup> Pursuant to Wis. Stat. § 961.16(2)(a)10, morphine sulfate is a schedule II controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(2).

<sup>6</sup> Percocet contains oxycodone.



controlled substances, in home health care, hospice, pool, assisted living or agency setting); arranging for quarterly work reports from her supervisor; and practicing only in Wisconsin during the pendency of the limitations.

Anderson obtained prescription drugs without lawful authority by diverting them from her workplace, as did Respondent in this case. Both admitted to an addiction to controlled substances. These cases are factually similar; therefore, Respondent should be suspended indefinitely and have the same license limitations placed on her license as those placed on Anderson.

Similarly, in *In the Matter of Disciplinary Proceedings Against Rachel C. Cass, L.P.N.*, Order 0003794 (March 12, 2015),<sup>7</sup> Rachel Cass worked as a licensed practical nurse at an assisted living facility. The facility discovered that the number of hydrocodone tablets delivered to the facility was different than the number of tablets entered into the medication count system. Upon investigation, it was discovered that Cass took delivery of hydrocodone for two patients. She then entered a lower number of tablets into the computer system than what was actually delivered and kept the remaining tablets of hydrocodone. Cass admitted that she diverted the hydrocodone tablets for personal use. The Board suspended her license indefinitely and limited her license. The suspension could not be stayed for at least three months. Her license limitations included enrolling and participating in a drug monitoring program with random drug testing of not less than forty-nine 49 times per year; participating in treatment; providing a copy of the order to her employer; complying with treatment recommendations; keeping releases on file with all treatment facilities; attending AA/NA meetings at least twice a week; abstaining from use of alcohol and from controlled substances except when prescribed; notifying the Department Monitor of all prescribed medications as well as use of any over-the-counter medications, practicing under direct supervision; obtaining pre-approval of work settings prior to beginning employment (including not working in a setting where she has access to controlled substances, home health care, hospice, pool, assisted living or agency setting); arranging for quarterly work reports from her supervisor; and practicing only in Wisconsin during the pendency of the limitations.

As in the instant case, Cass obtained drugs without lawful authority by diverting controlled substances from work for personal use. In fact, Respondent's circumstances were more egregious because she also altered patient records, including altering another employee's signature. Therefore, Respondent should be suspended indefinitely and have all of the same license limitations placed on her license as those imposed in *Cass*.

In *In the Matter of Disciplinary Proceedings Against Angela M. Brun, R.N.*, Order 0005653 (March 8, 2018),<sup>8</sup> Angela Brun worked as a home care professional nurse for Patient A. Concerns were raised regarding missing amounts of the patient's Dilaudid.<sup>9</sup> A video camera was set up which captured Brun obtaining and ingesting Patient A's Dilaudid on two separate

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<sup>7</sup> A copy of this order can be found at <https://online.drl.wi.gov/decisions/2014/ORDER0003386-00010192.pdf>.

<sup>8</sup> A copy of this order can be found at <https://online.drl.wi.gov/decisions/2018/ORDER0005653-00014454.pdf>

<sup>9</sup> 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).

occasions. Brun admitted diverting the medication and was subsequently convicted of a misdemeanor criminal offense related to that conduct. The Board suspended her license indefinitely and limited her license. The suspension could not be stayed for at least three months. Her license limitations included enrolling and participating in a drug monitoring program with random drug testing of not less than 49 times per year; participating in treatment; providing a copy of the order to her employer; complying with treatment recommendations; keeping releases on file with all treatment facilities; attending AA/NA meetings at least twice a week; abstaining from use of alcohol and from controlled substances except when prescribed; notifying the Department Monitor of all prescribed medications as well as use of any over-the-counter medications; practicing under direct supervision; obtaining pre-approval of work settings prior to beginning employment (including not working in a setting where she has access to controlled substances home health care, hospice, pool, assisted living or agency setting); arranging for quarterly work reports from her supervisor; and practicing only in Wisconsin during the pendency of the limitations.

Like Brun, Respondent diverted medication while at work for personal use. Respondent should be suspended indefinitely and have all the same license limitations placed on her license as those imposed in *Brun*.

### Costs

The Board is vested with discretion concerning whether to assess all or part of the costs of this proceeding against Respondent. *See* Wis. Stat. § 440.22(2). In exercising such discretion, the Board must look at aggravating and mitigating facts of the case; it may not assess costs against a licensee based solely on a “rigid rule or invocation of an omnipresent policy,” such as preventing those costs from being passed on to others. *Noesen v. State Department of Regulation & Licensing, Pharmacy Examining Board*, 2008 WI App 52, ¶¶ 30-32, 311 Wis. 2d 237, 751 N.W.2d 385. Boards have also, in previous orders, considered the following factors when determining if all or part of the costs should be assessed against a Respondent: (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*, Order LS0802183CHI (Aug. 14, 2008). It is within the Board’s discretion as to which, if any, of these factors to consider, whether other factors should be considered, and how much weight to give any factors considered.

Full costs should be imposed on Respondent in this matter. Respondent’s conduct is of a serious nature. The factual allegations were deemed admitted and there is no argument to indicate any factual findings or litigation were unnecessary. The Division is seeking an indefinite suspension with significant limitations of Respondent’s professional nursing license. Respondent has failed to cooperate with the disciplinary process and has failed to make any argument against imposing full costs against her. Furthermore, 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 Katelyn S. Kratochwill's professional nursing license (license number 316609-31) and her privilege to practice nursing in the State of Wisconsin pursuant to the Nurse Licensure Compact and Enhanced Nurse Licensure Compact are suspended and limited as follows:

#### **SUSPENSION**

- A.1. Respondent's license (license number 316609-31) to practice as a nurse in the State of Wisconsin is SUSPENDED for an indefinite period.
- A.2. Respondent's 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 and the Enhanced Nurse Licensure Compact are 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 and the Enhanced 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. 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 practice 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, grant full Wisconsin licensure at any time.

#### **STAY OF SUSPENSION**

- B.1. The suspension shall not be stayed for the first three months, but any time after three 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 three 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 or its designee 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 Department of Safety and Professional Services, Division of Legal Services and Compliance 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, 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 approved 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 by the speaker or chair 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 provide the Department Monitor with a list of over-the-counter medications and drugs that she may take. Respondent shall abstain from all use of over-the-counter medications, products, or other substances (including but not limited to natural substances, such as poppy seeds or any products containing alcohol) which may mask consumption of controlled substances or alcohol, create false positive screening results, or otherwise interfere with Respondent's test results, treatment or rehabilitation, unless ordered by a physician and approved by Treater, in which case the drug must be reported as described in paragraph C.11. 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 administration, fill or refill 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.

### **Drug and Alcohol Screens**

- C.12. Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department (Approved Program).
- C.13. 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, nail, hair, saliva or other specimen at a collection site designated by the Approved Program within five hours of notification of a test.
- C.14. The Approved Program shall require the testing of specimens at a frequency of not less than 49 times per year, for at least the first year of this Order. Thereafter, the Board may adjust the frequency of testing on its own initiative at any time.
- C.15. If any urine, blood, sweat, nail, 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.16. 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.17. 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.18. The Approved Program shall submit information and reports to the Department Monitor as directed.

## **Practice Limitations**

- C.19. Respondent shall not work as a nurse or other health care provider in a setting in which Respondent has access to controlled substances.
- C.20. 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, who has received a copy of this Order.
- C.21. Respondent shall practice only in a work setting pre-approved by the Board or its designee. Requests for preapproval must be accompanied by a current job description, name and contact information of the direct supervisor, and written acknowledgment from the employer that a copy of this Order has been received and that the restrictions will be accommodated.
- C.22. Respondent may not work in a home health care, hospice, pool nursing, assisted living, agency, or as a nurse in a correctional setting.
- C.23. Prior to commencing practice, 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.24. It is Respondent's responsibility to arrange for quarterly written reports to be submitted to the Department Monitor from her or her supervisor at each setting in which Respondent practiced nursing in the previous quarter. These reports shall be submitted as directed by the Department Monitor, and 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.25. 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](mailto: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. Respondent shall submit self-reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. The reports shall include a summary of Respondent's compliance with the terms and conditions of the Order in the previous quarter, Respondent's current address and home telephone number. The self-report shall not be considered formal change of address notification pursuant to Wis. Stat. § 440.11.

#### **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.



### **Costs of Compliance**

- D.7. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

### **Costs of Proceeding**

- D.8. Respondent shall pay costs to the Department of Safety and Professional Services in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. In the event Respondent fails to timely submit any payment of costs, Respondent's license may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order. 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

### **Additional Discipline**

- D.9. In addition to any other action authorized by this Order or law, the Board, in its discretion, may impose additional limitations or pursue separate disciplinary action for violation of any term of this Order.

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 June 15, 2018.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
4822 Madison Yards Way, 5<sup>th</sup> Floor  
Madison, Wisconsin 53705  
Tel. (608) 266-7709  
Fax (608) 264-9885

By: \_\_\_\_\_

Jennifer E. Nashold  
Administrative Law Judge