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

In the Matter of Disciplinary Proceedings Against
Derek P. Steinke, R.N., Respondent

FINAL DECISION AND ORDER

Order No. 1706240

Division of Legal Services and Compliance Case No. 17 NUR 034

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 13 day of JUNE, 2019.

A handwritten signature in black ink, appearing to be 'D. Steinke', written over a horizontal line.

Member
Board of Nursing



Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of Disciplinary Proceedings Against
Derek P. Steinke, R.N., Respondent

DHA Case No. SPS-18-0046
DLSC Case No. 17 NUR 034

PROPOSED DECISION AND ORDER

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

Derek P. Steinke, R.N.
4324 N. Lightning Drive, Apt. 7
Appleton, WI 54913

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 Elizabeth K. Bronson
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 November 8, 2018, when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed a formal Complaint against Respondent Derek P. Steinke, R.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), and by violating or aiding and abetting a violation of any law substantially related to the practice of nursing or being convicted of a crime substantially related to the practice of nursing, in violation of Wis. Admin. Code § N 7.03(2).

The Division served Respondent on November 8, 2018, by sending a copy of the Notice of Hearing and Complaint to 4324 North Lightning Drive, Apartment 7, Appleton, Wisconsin 54913, via certified and regular mail.

At the expiration of the 20-day time period to file an Answer, the Administrative Law Judge (ALJ) scheduled a telephone prehearing conference for December 10, 2018. At the December 10, 2018 prehearing conference Respondent stated that counsel may be representing him; therefore, the prehearing conference was rescheduled to December 20, 2018. Consistent with discussions held at the December 20, 2018, prehearing conference, the ALJ issued a Prehearing Conference Report and Scheduling Order, which set a hearing date of April 9, 2019. The Order gave Respondent additional time, until January 30, 2019, to file an Answer to the Complaint or to any Amended Complaint. Respondent failed to file an Answer. As a result, on February 8, 2019, the Division filed a motion for default pursuant to Wis. Admin. Code § SPS 2.14.

On February 18, 2019, the ALJ issued a Notice of Default and Order against Respondent and ordered that the Division file a recommended proposed decision and order by March 18, 2019. The Division timely filed its submission.

FINDINGS OF FACT

Facts Related to the Alleged Violations

Findings of Facts 1-11 are taken from the Division's Complaint against Respondent filed in this matter.

1. Respondent Derek P. Steinke is licensed in the State of Wisconsin as a registered nurse, having license number 232746-30, first issued on January 6, 2017, and current through February 28, 2020.

2. Respondent's most recent address on file with the Department is 4324 North Lightning Drive, Apartment 7, Appleton, Wisconsin 54913.

3. At all times relevant to this proceeding, Respondent was employed as a registered nurse at an orthopedic facility (Facility), located in Appleton, Wisconsin.

4. On February 20, 2017, eight patches of fentanyl 25 mcg were discovered missing from two of the Facility's controlled substance contingency boxes.

5. The Facility found the medication log from one of the contingency boxes with missing fentanyl patches in the shred bin and noticed that it appeared someone had tampered with this contingency box.

6. On February 22, 2017, Respondent submitted to a urine drug screen.

7. Respondent was the only employee to test positive for opioids who had access to the contingency boxes.

8. On February 22, 2017, the Appleton Police Department interviewed Respondent as part of the investigation.

9. Respondent admitted to taking and using the fentanyl patches from the Facility's contingency boxes for his personal use without permission.

10. On December 20, 2017, in Outagamie County case number 2017CF000748, Respondent pled no contest and was convicted of one count of theft of movable property, a Class A Misdemeanor, in violation of Wis. Stat. § 943.20(1)(a), and one count of possession of illegally obtained prescription, a Class U Misdemeanor, in violation of Wis. Stat. § 450.11(7)(h).

11. Pursuant to Wis. Stat. § 961.16(3)(f), fentanyl is a Schedule II controlled substance for which, under the circumstances here, a prescription is required pursuant to Wis. Stat. § 961.38(2).

Facts Related to Default

12. The Notice of Hearing and Complaint in this matter were served on Respondent on November 8, 2018, by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08. The Notice of Hearing informed Respondent that he was required to file an Answer within 20 days, pursuant to Wis. Admin. Code § SPS 2.09(4), and that if he failed to do so, he would be found in default and default judgment would be entered against him on the basis of the Complaint and other evidence. The Notice further informed Respondent that a failure to file an Answer could result in the Board taking disciplinary action against him and imposing the costs of the investigation, prosecution and decision of this matter upon him without further notice or hearing.

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

14. Following expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for December 10, 2018. At the December 10, 2018 prehearing conference, Respondent stated that counsel may be representing him; therefore, the prehearing conference was rescheduled to December 20, 2018.

15. Following the December 20, 2018, prehearing conference, consistent with the discussions held, the ALJ issued a Prehearing Conference Report and Scheduling Order, which set a hearing date of April 9, 2019. The Order also gave Respondent until January 30, 2019 to file an Answer to the Complaint or to any Amended Complaint.

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

17. On February 8, 2019, the Division filed a motion for default pursuant to Wis. Admin. Code § SPS 2.14 based on Respondent's failure to file an Answer.

18. On February 18, 2019, the ALJ issued a Notice of Default and Order, which required the Division to file and serve, no later than March 18, 2019, a recommended proposed decision and order.

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

DISCUSSION AND CONCLUSIONS OF LAW

Default

As stated in the February 18, 2019, Notice of Default and Order, Respondent is in default for failing to file an Answer to the Complaint. Accordingly, an order may be entered against him on the basis of the Complaint and other evidence. *See* Wis. Admin. Code § SPS 2.14.

Violations

Pursuant to Wis. Stat. § 441.07(1g)(b) and (d), 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 has committed misconduct or unprofessional conduct.

Respondent violated Wis. Admin. Code § N 7.03(8)(e), by obtaining and possessing a drug without lawful authority. Pursuant to Wis. Stat. § 961.16(3)(f), fentanyl is a schedule II controlled substance for which a prescription is required, pursuant to Wis. Stat. § 961.38(2). Respondent admitted that in February 2017, he took and used eight fentanyl patches for his own use from the supply boxes of the Facility where he was employed. The results of Respondent’s urine drug screen from February 22, 2017 were positive for fentanyl. Respondent did not have permission to take the fentanyl patches, nor did he have a valid prescription for fentanyl. Because Respondent obtained fentanyl unlawfully, he violated Wis. Admin. Code § N 7.03(8)(e).

As a result of the conduct described above, Respondent was convicted on December 20, 2017, for theft of moveable property and possession of an illegally obtained prescription. These convictions are substantially related to the practice of nursing. The facts surrounding the convictions occurred while Respondent was working as a registered nurse and involved misuse of controlled substances taken from his employer. Pursuant to Wis. Admin. Code § N 7.03(2), the judgment of conviction is *prima facie evidence* of a violation. Moreover, Respondent has not raised any argument to the contrary. Consequently, Respondent has violated Wis. Admin. Code § N 7.03(2) by being convicted of a crime substantially related to the practice of nursing.

As a result of the above violations, 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 credential holder; (2) to protect the public from other instances of misconduct; and (3) to deter other credential holders from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976).

The Division recommends the imposition of the Board’s standard impairment order, set forth in the Order section below, which includes an immediate suspension with the ability to stay the suspension after three months. Additionally, the recommended order includes at least five

years of monitoring and compliance with the terms of the order, under which Respondent must undergo regular drug testing and Alcohol and Other Drug Abuse (AODA) treatment.

The recommended discipline is appropriate and consistent with the purposes articulated in *Aldrich*. The actions of Respondent are of a serious nature. Nurses often have access to controlled substances and narcotics, and diversion of these drugs poses a threat to patients and other members of the public. Thus, an indefinite suspension deters other licensees from diverting drugs from their employers. Additionally, this Order promotes rehabilitation of Respondent through the condition of monitoring with drug testing and AODA treatment. This condition allows the Board to monitor Respondent's compliance, which will protect the public. Moreover, the condition for work reports and direct supervision recommended by the Division would ensure that Respondent is practicing safely and not placing patients at risk, further promoting rehabilitation and protecting the public.

The recommended discipline is also consistent with prior Board decisions. See *In the Matter of Disciplinary Proceedings Against Aaron A. Thomas, R.N.*, 0004475 (Jan. 14, 2016)¹ (nurse who appeared impaired while at work and diverted morphine and hydromorphone from patients for his personal use had license suspended indefinitely with the ability to stay the suspension after three months, and was given Board's standard impairment order requiring compliance with regular drug testing, as well as AODA treatment, for a period of at least five years); *In the Matter of Disciplinary Proceedings Against Brooke L. Schommer, L.P.N.*, 0005503 (Nov. 9, 2017)² (nurse given same discipline for conviction of theft of movable property for stealing thirty oxycodone tablets from employer); *In the Matter of Disciplinary Proceedings Against Katelyn S. Kratochwill, L.P.N.*, 0005843 (Aug. 9, 2018)³ (nurse given same discipline for diverting patient medications); *In the Matter of Disciplinary Proceedings Against Angela M. Brun, R.N.*, 0005653 (Mar. 8, 2018)⁴ (nurse given same discipline for disorderly conduct conviction resulting from stealing Dilaudid from her employer and ingesting it).

Based on the facts of this case, the criteria set forth in *Aldrich*, and prior Board decisions, it is appropriate to impose the discipline recommended by the Division and set forth in more detail in the order section below.

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. In previous orders, Boards have 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

¹ This decision is available on-line at <https://online.drl.wi.gov/decisions/2016/ORDER0004475-00012228.pdf>

² This decision is available on-line at <https://online.drl.wi.gov/decisions/2017/ORDER0005503-00014146.pdf>

³ This decision is available on-line at <https://online.drl.wi.gov/decisions/2018/ORDER0005843-00014827.pdf>

⁴ This decision is available on-line at <https://online.drl.wi.gov/decisions/2018/ORDER0005653-00014454.pdf>

level of discipline sought by the prosecutor; (4) the cooperation of the respondent; (5) any prior discipline; and (6) the fact that the Department is a program revenue agency, funded by other licensees. *See In the Matter of Disciplinary Proceedings against Elizabeth Buenzli-Fritz*, LS 0802183 CHI (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.

The following facts are particularly relevant to the instant case. First, by virtue of Respondent's default, the factual allegations were deemed admitted in this matter, the Division has proven all counts alleged, and there is no argument to indicate any litigation in this proceeding was unnecessary. Second, Respondent's conduct is serious. Respondent admitted to the police that he took fentanyl from his employer without permission and used it for himself, for which he was convicted of one count of theft of movable property, a Class A Misdemeanor, in violation of Wis. Stat. § 943.20(1)(a), and one count of possession of illegally obtained prescription, a Class U Misdemeanor in violation of Wis. Stat. § 450.11(7)(h). Third, as a result of Respondent's serious conduct, the Division sought, and was granted, significant discipline, *i.e.*, indefinite suspension of Respondent's license, along with long-term and rigorous monitoring and treatment. Moreover, Respondent has failed to cooperate with the disciplinary process and has failed to make any argument against imposing full costs against him. Finally, the Department is a program revenue agency whose operating costs are funded by the revenue received from credential holders. As such, fairness weighs heavily in requiring Respondent to pay the costs of this proceeding which resulted in significant discipline, rather than spreading the costs among all Board of Nursing licensees in Wisconsin. Accordingly, it is appropriate for Respondent to pay the full costs of the investigation and of these proceedings.

ORDER

Accordingly, IT IS ORDERED that Respondent Derek P. Steinke's registered nursing license (license number 232746-30) and his privilege to practice nursing in the State of Wisconsin pursuant to the Enhanced Nurse Licensure Compact are suspended and limited as follows:

SUSPENSION

- A.1. The license of Derek P. Steinke (license number 232746-30), to practice as a registered nurse in the State of Wisconsin is SUSPENDED for an indefinite period.
- A.2. The privilege of Derek P. Steinke to practice as a nurse in the State of Wisconsin under the authority of another state's license pursuant to the Enhanced Nurse Licensure Compact is also SUSPENDED for an indefinite period.
- A.3. 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 violation of any provision of this Order.
- 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.

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 he may take from time to time. 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 himself 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 (one of which must be a hair test), 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 his 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

Respondent may also submit this information online via DSPS' Monitoring Case Management System, here: <https://app.wi.gov/DSPSMonitoring>

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 (#232746-30) 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.

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.

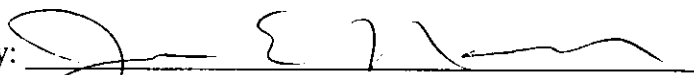
IT IS FURTHER ORDERED that Respondent shall pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to the address in paragraph D.1.

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

Dated at Madison, Wisconsin on April 30, 2019.

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

By:



Jennifer E. Nashold

Administrative Law Judge