

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov



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

In the Matter of Disciplinary Proceedings Against
Erin E. Hansen, R.N., Respondent

FINAL DECISION AND ORDER

Order **ORDER 0006709**

Division of Legal Services and Compliance Case No. 18 NUR 264

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 12 day of MARCH, 2020.

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Member
Board of Nursing



Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of Disciplinary Proceedings Against
Erin E. Hansen, R.N., Respondent

DHA Case No. SPS-19-0030
DLSC Case No. 18 NUR 264

PROPOSED DECISION AND ORDER

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

Erin E. Hansen
N95 W24993 County Highway Q
Colgate, WI 53017

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

PROCEDURAL HISTORY

On May 1, 2019, the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed and served a Notice of Hearing and Complaint by both certified and regular mail on Erin E. Hansen (Respondent) and referred the matter to the Division of Hearings and Appeals for assignment of an administrative law judge (ALJ). Respondent did not file an Answer within 20 days.

On May 24, 2019, ALJ Sally Pederson sent written notice to Respondent and the Division that a prehearing telephone conference was scheduled for June 4, 2019. During the prehearing conference on June 4, 2019, the ALJ granted Respondent's request to extend the deadline for filing an Answer to June 18, 2019. Respondent filed an Answer on June 19, 2019.

On June 24, 2019, a second prehearing telephone conference was held. During the prehearing conference, Respondent stated that she did not dispute the factual allegations in paragraphs 3-12 of the Complaint but did not agree with paragraph 13. The Division stated its intention to file an Amended Complaint. Accordingly, the ALJ granted additional time to file an Amended Complaint. The Amended Complaint was served on Respondent by the Division on July 2, 2019 by both certified and regular mail. Respondent did not file an Answer to the Amended Complaint within 20 days.

Following expiration of the 20-day time period to file an Answer, the ALJ scheduled another prehearing telephone conference for September 9, 2019 at 1:00 p.m. and sent written notice of the prehearing conference to both parties. The notice stated that the ALJ would contact Respondent at the same telephone number used for the prior prehearing conferences unless Respondent contacted the ALJ with a different telephone number prior to September 9, 2019. Respondent did not provide a different telephone number.

At the prehearing conference on September 9, 2019, the ALJ called Respondent at approximately 1:03 p.m. and left a voicemail message for Respondent indicating that Respondent should contact the ALJ at the telephone number provided within 15 minutes, failing which, the ALJ would proceed with the conference without Respondent. Respondent did not contact the ALJ as instructed. Consequently, the ALJ reconvened the prehearing conference with the Division at approximately 1:21 p.m., at which time Attorney Kennedy moved for default, pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA1.07(3)(c), based on Respondent's failure to file an Answer to the Amended Complaint and failure to appear at the prehearing conference held on September 9, 2019. In light of Respondent's failure to file an Answer to the Amended Complaint and failure to appear at the prehearing conference, the ALJ granted the motion, found Respondent in default, and issued a Notice and Order of Default on September 9, 2019. The Division was ordered to file and serve a recommended proposed decision and order no later than October 9, 2019.

On September 10, 2019, Respondent left a voicemail for the ALJ in which she stated that she had not received notice of the prehearing conference and requested that the prehearing conference be rescheduled. Over the Division's objections, the ALJ rescinded the Notice and Order of Default and scheduled another prehearing telephone conference for September 17, 2019.

During the prehearing conference held on September 17, 2019, Respondent stated she did not dispute the factual allegations set forth in paragraphs 1-17 of the Division's Amended Complaint filed on July 2, 2019. Respondent did not agree with paragraphs 18-21, which alleged that her conduct constituted violations of the specified sections of the Wisconsin Administrative Code and Statutes and that imposition of discipline and costs were warranted.

Rather than proceed to a hearing, Respondent requested the ALJ make a decision on the bases of the parties' written arguments/briefs regarding whether the admitted conduct constituted violations of the Wisconsin administrative code and statutes and regarding the appropriateness of imposing discipline and costs. The Division agreed to proceed without a hearing.

The Division timely filed its brief on November 1, 2019. Respondent electronically filed her written argument on December 6, 2019, but due to an apparent technological error, it was not received by the ALJ and the Division until December 13, 2019. Consequently, the ALJ extended the deadline for the Division to file a reply brief to January 3, 2020, and the Division filed a reply brief on that date.

FINDINGS OF FACT

Respondent admitted to the following facts, as set forth in the Amended Complaint:

1. Respondent Erin E. Hansen is licensed in the State of Wisconsin to practice as a registered nurse, having license number 151087-30, first issued on July 22, 2005, and current through February 28, 2020.
2. The most recent address on file with the Wisconsin Department of Safety and Professional Services for Respondent is N95 W24993 County Highway Q, Colgate, Wisconsin 53017.
3. On September 14, 2017, Patient A had requested pain medication from Nurse B.
4. Respondent was providing dialysis treatment for Patient A and offered to help Nurse B administer Vicodin to Patient A.
5. After the Vicodin was scanned, Respondent switched the Vicodin pill with a high blood pressure medication that Patient A was also prescribed.
6. Nurse B took notice that Respondent was not administering the Vicodin pill and notified Respondent's supervisor.
7. Respondent was searched and the Vicodin pill was found in her pocket.
8. On September 23, 2017, Respondent completed an alcohol and other drug abuse (AODA) assessment.
9. Respondent was diagnosed with alcohol abuse disorder, and it was recommended that she participate in an AODA dual diagnosis outpatient program, individual and family therapy sessions, stress management, and Alcoholics Anonymous (AA) meetings.
10. On September 27, 2017, Respondent began treatment with a psychologist.
11. On December 12, 2017, Respondent was approved to participate in the Professional Assistance Procedure (PAP) program as an alternative to discipline. As a condition of participation, Respondent agreed to abstain from all personal use of alcohol and submit to random alcohol and drug tests.
12. The PAP application stated "If eligible, it will be necessary for you to sign an Agreement for Participation that describes the requirements for participation, as well as a statement

of facts which may be used as a basis for further action upon violation of the Agreement for Participation.” (emphasis removed). This Application was signed by Respondent.

13. The PAP Agreement for Participation stated “I agree that the attached Statement of Facts is true. I also understand that the Statement of Facts may be used as evidence in a disciplinary action if I am dismissed from the program for failure to comply with this agreement.” The Agreement was signed by Respondent.
14. On March 16 and 19, 2018, Respondent tested positive for alcohol. Her response to the positive tests was: “I am sorry for testing positive for alcohol. I had friends in from LA and we were celebrating our Irish heritage. I am still attending AA meetings as well as my group and individual counseling sessions.”
15. On April 11, 2018, Respondent again tested positive for alcohol. Her response to the positive test was: “Again, I apologize for the positive result. I had attended a family birthday party the night of April 10th and got to see my brother and family from New Jersey which is a rare thing as he’s a Colonel in the Air Force.”
16. On April 24, 2018, the Division was informed that Respondent was discharged from the PAP program due to her relapses in March and April 2018.
17. On May 30, 2018, Respondent’s psychologist recommended Respondent return to treatment, practice total abstinence from alcohol, and attend two or more AA meetings a week.

DISCUSSION

Burden of Proof

The burden of proof in disciplinary proceedings is on the Division to show by a preponderance of the evidence that the events constituting the alleged violations occurred. Wis. Stat. § 440.20(3); *see also* Wis. Admin. Code § HA 1.17(2). To prove by a preponderance of the evidence means that it is “more likely than not” that the examined action occurred. *See State v. Rodriguez*, 2007 WI App. 252, ¶ 18, 306 Wis. 2d. 129, 743 N.W.2d 460, citing *United States v. Saulter*, 60 F.3d 270, 280 (7th Cir. 1995).

Violations

In the instant case, Respondent admitted that the events described in the Findings of Facts set forth herein occurred. In her Answer to the Amended Complaint, she admitted that she stole a narcotic drug, namely Vicodin, from a patient. In addition, during the prehearing telephone conference on September 17, 2019, Respondent stated that she admitted and did not dispute the conduct described in allegations 1 through 17 in the Amended Complaint. Therefore, the Division proved those allegations. However, Respondent argued that the admitted conduct did not violate the specified sections of the Wisconsin administrative code and statutes.

Under Wis. Stat. § 441.07(1g)(c), the Wisconsin Board of Nursing (Board) may revoke, limit, suspend or deny a license of a registered nurse if the Board finds that the licensee or applicant committed “[a]cts which show the registered nurse ... to be unfit or incompetent by reason of negligence, abuse of alcohol or other drugs or mental incompetency.” In addition, the grounds for the Board to take disciplinary action on a nursing license include “unsafe practice or substandard care,” including the inability “to practice safely by reason of alcohol or other substance use.” Wis. Admin. Code § N 7.03(6)(f).

Respondent stole a prescription pill from a patient for her personal use and did not administer the pain relief medication to the patient. Instead, Respondent administered the patient’s high blood pressure medication to the patient in place of the Vicodin. Despite her argument to the contrary, Respondent’s actions constituted substandard care and unfit or incompetent practice under the applicable sections of the administrative code and statutes.

After being caught with the stolen Vicodin, Respondent underwent an AODA assessment and was determined to have an alcohol abuse disorder. Respondent entered the Professional Assistance Program (PAP) and signed a PAP agreement in which she agreed to not consume alcohol. Nevertheless, Respondent tested positive for alcohol on three dates and admitted that she consumed alcohol on at least two occasions. As a result, she was discharged from PAP. Respondent’s psychologist recommended that she maintain total abstinence, continue treatment, and attend two or more sobriety recovery meetings per week, plus group or individual counseling sessions. Respondent did not dispute the psychologist’s recommendation. Nevertheless, Respondent argued in her Answer to the Amended Complaint and post-hearing brief that she does not have an alcohol problem and is a social drinker, not a “dependent drinker.” Because Respondent did not comply with the PAP agreement and her psychologist’s recommendations regarding abstinence from alcohol, the Division reasonably and justifiably determined that Respondent is unsafe to practice nursing by reason of alcohol abuse.

Discipline

Based upon the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g) and Wis. Admin. Code § N 7.03(6)(f). The Board may legally deny, revoke, limit, or suspend Respondent’s license based on her violations.

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 the imposition of the Board’s standard impairment order, 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 AODA treatment.

The recommended discipline is appropriate and consistent with the purposes articulated in *Aldrich*. Respondent engaged in a serious violation by stealing a prescription medication from a patient and not administering it to the patient. 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, the suspension promotes rehabilitation of Respondent through the condition of monitoring with drug testing and AODA treatment. While Respondent disputes the seriousness of her alcohol use, there is no credible evidence on the record that negates the appropriateness of her psychologist's recommendation that she maintain absolute sobriety. Moreover, Respondent failed to comply with PAP, indicating that she did not take her rehabilitation and treatment seriously in the past. In addition, the recommended condition requiring work reports and direct supervision would ensure that Respondent is practicing safely and not placing patients at risk, further promoting rehabilitation and also protecting the public.

The recommended discipline is also consistent with prior Board decisions. For example, *In the Matter of Disciplinary Proceedings Against Ann M. Lenck, R.N.*, Order Number 0005386 (July 27, 2017), involved a nurse who diverted controlled substances from her employer. The Board suspended the nurse's license and allowed her to petition for a stay of the suspension after three months upon providing proof to the Board that she was in compliance with the ordered conditions and limitations during that time period, which served to safeguard the public.¹ In *In the Matter of Disciplinary Proceedings Against Amy J. O'Donnell, R.N.*, the nurse entered into PAP after a reasonable suspicion drug screen tested positive for a controlled substance not prescribed to her. O'Donnell was assessed with a suspected drug dependency but failed, like Respondent, to comply with the terms of the agreement and was dismissed from PAP. The Board entered an Order against O'Donnell that included the standard terms for a five-year impairment order, including absolute sobriety.²

See also *In the Matter of Disciplinary Proceedings Against Aaron A. Thomas, R.N.*, 0004475 (Jan. 14, 2016)³ (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 Katelyn S. Kratochwill, L.P.N.*, 0005843 (Aug. 9, 2018)⁴ (nurse given same discipline for diverting patient medications); *In the Matter of Disciplinary Proceedings Against Angela M. Brun, R.N.*, 0005653 (Mar. 8, 2018)⁵ (nurse given same discipline for disorderly conduct conviction resulting from stealing Dilaudid from her employer and ingesting it). Because the circumstances in these prior Board decisions are sufficiently similar to those in the instant case, similar discipline should be imposed.

Respondent's argument that she does not have an alcohol dependency and that attending AA meetings would no longer benefit her is not compelling in light of her psychologist's recommendations and her failure to comply with the PAP agreement. While it is admirable that she has been working, it is concerning that she did not complete recommended treatment and has not maintained sobriety. The safety of the public and her patients is at risk when the Board

¹ This decision is available online at <https://online.drl.wi.gov/decisions/2017/ORDER0005386-00013924.pdf>

² This decision is available online at <https://online.drl.wi.gov/decisions/2015/ORDER0004425-00012135.pdf>

³ This decision is available on-line at <https://online.drl.wi.gov/decisions/2016/ORDER0004475-00012228.pdf>

⁴ This decision is available on-line at <https://online.drl.wi.gov/decisions/2018/ORDER0005843-00014827.pdf>

⁵ This decision is available on-line at <https://online.drl.wi.gov/decisions/2018/ORDER0005653-00014454.pdf>

cannot ensure that Respondent is sober and fit to practice competent nursing. While Respondent's concern about being unable to perform drug screening tests on days that she is working is understandable, it does not justify removing a condition that will help protect the public from other instances of misconduct and promote her rehabilitation. Based on the facts of this case, the criteria set forth in *Aldrich*, and prior Board decisions, suspension of Respondent's license and privilege to practice practical nursing in Wisconsin under the Enhanced Nurse Licensure Compact, as well imposition of the conditions and limitations requested by the Division, are warranted.

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 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, the factual allegations were admitted by Respondent, 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 that she took Vicodin from a patient for her own use and did not administer pain medication to the patient. Third, Respondent was approved to participate in PAP as an alternative to discipline but failed to comply with the terms of the PAP agreement and was discharged. 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. Respondent did not make an argument regarding costs. Accordingly, it is appropriate for Respondent to pay the full costs of the investigation and of these proceedings.

CONCLUSIONS OF LAW

1. By stealing medication from a patient for personal use rather than administering the medication to the patient, failing to maintain sobriety in violation of the PAP agreement, and failing to comply with recommended continued treatment, Respondent engaged in conduct showing her to be unfit and unsafe to practice under Wis. Stat. § 441.07(1g)(c) and Wis. Admin. Code § N 7.03(6)(f).
2. As a result of these violations, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g) and Wis. Admin. Code § N 7.03.
3. Suspension of Respondent's license and privilege to practice practical nursing in Wisconsin under the Enhanced Nurse Licensure Compact, as well imposition of the conditions and limitations set forth in the Order section below, are warranted under Wis. Stat. § 441.07, Wis. Admin. Code § N 7.03, the facts on record in this case, and the criteria set forth in *Aldrich*.
4. Under Wis. Stat. § 440.22(2) and the facts of this case, imposition of 100 percent of the costs of this proceeding on Respondent is reasonable and appropriate.

ORDER

For the reasons set forth above, IT IS ORDERED that:

1. The professional nursing license issued to Respondent Erin E. Hansen (license number 151087-30) is SUSPENDED as follows:

SUSPENSION

A.1. The license of Erin E. Hansen, R.N., to practice as a registered nurse in the state of Wisconsin is SUSPENDED for an indefinite period.

A.2. The privilege of Erin E. Hansen, R.N., to practice as a registered 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 the 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 of Respondent's Wisconsin nursing license may be stayed upon Respondent petitioning the Board and providing proof, which is determined by the Board or its designee to be sufficient, that Respondent is in compliance with the provisions of Sections C and D of this Order.
- 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 the 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 Order and all other subsequent orders.
- C.3. Respondent shall ask Treater to be responsible for coordinating Respondent's rehabilitation and treatment as required under the terms of this Order, and Treater would be expected to 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.

Recovery/AA/NA Meetings

- C.7. Respondent shall attend recovery meetings, such as 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 they 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 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 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

You 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.
2. Respondent shall pay 100 % of 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:

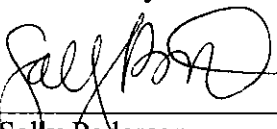
Department Monitor
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

3. The terms of this Order are effective the date the Final Decision and Order is signed by the Board.

Dated at Madison, Wisconsin on February 3, 2020.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
4822 Madison Yards Way, 5th Floor North
Madison, Wisconsin 53705
Telephone: (608) 266-7709
FAX: (608) 264-9885
EMAIL: Sally.Pederson@wisconsin.gov

By: _____


Sally Pederson
Administrative Law Judge