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Before the
State of Wisconsin
Board of Nursing

In the Matter of Disciplinary Proceedings Against
Julie L. Stamm, R.N., Respondent

FINAL DECISION AND ORDER

Order No. **ORDER 0006736**

Division of Legal Services and Compliance Case No. 17 NUR 449

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 8th day of April, 2020.

Al. Rohmeyer, ~~Member~~ DSPS Chief
~~Board of Nursing~~ Legal Counsel,
Delegatee



Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of Disciplinary Proceedings Against
Julie L. Stamm, R.N., Respondent

DHA Case No. SPS-19-0068
DLSC Case No. 17 NUR 449

PROPOSED DECISION AND ORDER

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

Julie L. Stamm

[REDACTED]
Verona, WI 53593

Wisconsin Board of Nursing
P.O. Box 8366
Madison, WI 53707-8366

Department of Safety and Professional Services,
Division of Legal Services and Compliance, by:

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

PROCEDURAL HISTORY

The proceedings were initiated on November 26, 2019, when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed a formal complaint against Respondent Julie L. Stamm, R.N., alleging that Respondent engaged in unprofessional conduct by failing to cooperate in a timely manner with the board's investigation, in violation of Wis. Admin. Code § N 7.03(1)(c); by practicing nursing while under the influence of illicit drugs or while impaired by the use of legitimately prescribed pharmacological agents or medications, in violation of Wis. Admin. Code § N 7.03(6)(e); by being unable to practice safely by reason of alcohol or other substance use, in violation of Wis.

Admin. Code § N 7.03(6)(f); and, 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 November 26, 2019, by sending a copy of the Notice of Hearing and Complaint to Respondent's address on file with the Department via certified and regular first-class mail. On November 29, 2019, the Notice of Hearing and the Complaint were received and signed for by a person named "B. Stamm." Respondent was required to file an Answer 20 days from the date of service; however, no Answer was filed.

After the expiration of the 20-day time period to file an Answer, Administrative Law Judge (ALJ) Sally Pederson scheduled a telephone prehearing conference for January 2, 2020. The ALJ sent notice of the prehearing conference by U.S. mail to Respondent. The notice ordered Respondent to contact the ALJ no later than January 1, 2020 to provide her current telephone number. The notice also stated that if Respondent failed to appear at the scheduled conference, default judgment may be entered against her.

Respondent failed to provide the ALJ with her current telephone number. At the telephone prehearing conference on January 2, 2020, Respondent failed to appear. The Division provided the ALJ with Respondent's telephone number on file with the Department. The ALJ attempted to call that number, but it was no longer in service. The prehearing conference continued without Respondent, and the Division moved for default, pursuant to Wis. Admin. Code § SPS 2.14. The ALJ granted the Division's motion.

On January 3, 2020, the ALJ issued a Notice of Default against Respondent and ordered the Division to file a recommended proposed decision and order by January 28, 2020. The Division timely filed its submission.

FINDINGS OF FACT

Facts from the Complaint Related to the Alleged Violations

1. Respondent Julie L. Stamm, R.N., is licensed in the state of Wisconsin to practice registered nursing, having license number 159584-30, first issued on August 8, 2007, and current through February 29, 2020.
2. Respondent's most recent address on file with the Department is 1900 Highway PB, Verona, Wisconsin, 53593.
3. At all relevant times, Respondent was employed as a registered nurse at an infusion center (Center) located in Madison, Wisconsin.
4. On June 14, 2017, after providing care to a patient at approximately 8:35 a.m., Respondent informed the Care Team Leader that she had a headache and needed to rest her eyes in the breakroom.

5. On June 14, 2017, at 10:00 a.m., Supervisor B wrote a manager's report of reasonable cause noting Respondent had heavy eyelids, blank stares, was sleepy, and nauseous. The report also states Respondent was sleeping in the employee breakroom covered in blankets.
6. At the same time, Supervisor P filled out a manager's report of reasonable cause noting Respondent had heavy eyelids, watery eyes, was sleepy, and that Respondent stated she needed to vomit while walking to Employee Health Services.
7. On the same day, Respondent was escorted to Employee Health Services for a Fitness for Duty Evaluation (evaluation) with a nurse practitioner (N.P.) to determine Respondent's ability to perform her job safely. Respondent was put on paid administrative leave pending an investigation and results of the drug screen taken during the evaluation.
8. On June 21, 2017, the results of Respondent's urine drug screen by Employee Health Services tested positive for cocaine, marijuana, and opiates.
9. On June 21, 2017, Respondent's physician called the Center's N.P. out of concern for patient safety to report that, because Respondent was prescribed narcotics (oxycodone) and benzodiazepines (alprazolam), Respondent was required to submit to a yearly drug screen. Respondent submitted to a urine drug screen on June 16, 2017 and tested positive for alprazolam, oxycodone, 6-MAM (heroin metabolite), benzoylecgonine (cocaine metabolite), and fentanyl.
10. On August 9, 2017, Respondent's employer filed a complaint with the Department, and the Department initiated an investigation. On March 20, 2019, the Department sent a letter to Respondent at her address on file with the Department, requesting a response to the complaint. Respondent did not respond.
11. On April 15, 2019, the Department sent a second letter to Respondent at her address on file with the Department requesting a response to the complaint. A PDF version of the letter was also sent to Respondent's email on file with the Department. Respondent did not respond to the letter or email.
12. On May 14, 2019, the Department sent a third letter to Respondent at her address on file with the Department requesting a response to the complaint. A PDF version of the letter was also sent to Respondent's email on file with the Department. Respondent did not respond to the letter or email.
13. On May 14, 2019, the Department investigator called Respondent at the telephone number on file with the Department. The phone number was no longer in service. The Department investigator found an alternate telephone number for Respondent and attempted to call Respondent at the alternate telephone number. There was no answer and the investigator was unable to leave a message.

Facts Related to Default

14. The Notice of Hearing and Complaint were served on Respondent on November 26, 2019, by both certified and first-class mail. The notice of hearing instructed Respondent: "If you do not provide a proper Answer within 20 days, you will be found to be in default and a default judgment may be entered against you on the basis of the Complaint and other evidence. In addition, the Board may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing."
15. On November 29, 2019, the Notice of Hearing and the Complaint were received and signed for by a person named "B. Stamm" at Respondent's address on file with the Department.
16. Respondent failed to file an Answer to the Complaint.
17. After the expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for January 2, 2020. The ALJ sent notice of the conference by U.S. mail to Respondent. The notice ordered Respondent to contact the ALJ no later than January 1, 2020 to provide her current telephone number. The notice also stated that if Respondent failed to appear at the scheduled conference, default judgment may be entered against her.
18. The Respondent failed to provide the ALJ with her telephone number.
19. At the prehearing conference on January 2, 2020, Respondent failed to appear. The Division provided the ALJ with Respondent's telephone number on file with the Department. The ALJ attempted to call that number, but it was no longer in service. The Division moved for default, pursuant to Wis. Admin. Code § SPS 2.14. The ALJ granted the Division's motion.
20. On January 3, 2020, the ALJ issued a Notice of Default and ordered the Division to file and serve a recommended proposed decision and order by January 28, 2020.
21. The Division timely filed its recommended proposed decision and order.

DISCUSSION AND CONCLUSIONS OF LAW

Jurisdictional Authority

Pursuant to Wis. Admin. Code § SPS 2.10(2), the undersigned ALJ has authority to preside over this disciplinary proceeding in accordance with Wis. Stat. § 227.46(1).

Default

Under Wis. Admin. Code § SPS 2.14, if a respondent “fails to answer as required by s. SPS 2.09 or fails to appear at the hearing at the time fixed therefor, the respondent is in default and the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence.” *See also* Wis. Admin. Code § HA 1.07(3)(c).

Here, Respondent violated Wis. Admin. Code § SPS 2.09(4) by failing to file an Answer to the Complaint, and she also failed to appear at the prehearing telephone conference. Therefore, Respondent is in default, and findings and an order may be entered on the basis of the Complaint.

Violations

Pursuant to Wis. Stat. §§ 441.07(1g)(b) and (d), the Wisconsin Board of Nursing (Board) has the authority to discipline any licensee or license holder for violating the standards of conduct established by the examining board under Wis. Stat. § 440.03(1) and for engaging in misconduct or unprofessional conduct as defined in Wis. Admin. Code § N 7.03. One of the grounds for taking disciplinary action include a licensee, after a request of the Board, failing to cooperate in a timely manner, with the Board’s investigation of a complaint. Wis. Admin. Code § N 7.03(1)(c).

Here, Respondent has failed to cooperate in a timely manner with the Board’s investigation. The allegations in the Complaint are undisputed. As set forth in the Complaint and the findings of fact herein, the Department made several attempts to contact Respondent, requesting that she provide a response to the complaint. Respondent never responded to the multiple requests for information that the Department made on behalf of the Board. Therefore, Respondent is subject to discipline by the Board, pursuant to Wis. Admin. Code § N 7.03(1)(c), based upon her failure to cooperate in a timely manner with the Board’s requests regarding its investigation of a complaint against her.

The Board also may take disciplinary action if it determines any of the following: (1) a licensee has engaged in unsafe practice or provided substandard care, including practicing nursing while under the influence of alcohol, illicit drugs, or while impaired by the use of legitimately prescribed pharmacological agents or medications; (2) a licensee is unable to practice safely by reason of alcohol or other substance use; or (3) a licensee obtains, possesses, or attempts to obtain or possess a drug without lawful authority. *See* Wis. Admin. Code §§ N 7.03(6)(e) and (f) and 7.03(8)(e), respectively.

Under Wis. Stat. § 961.14(3)(k), heroin is a schedule I controlled substance, possession of which is a Class I felony under Wis. Stat. § 961.41(3g)(am). Cocaine is a schedule II controlled substance under Wis. Stat. § 961.16(2)(b)1., possession of which is subject to a fine and imprisonment under Wis. Stat. § 961.41(3g)(c). Fentanyl is a schedule II controlled substance under Wis. Stat. § 961.16(3)(f), for which a prescription is required under Wis. Stat. § 961.38(1r).

The facts are undisputed related to Respondent practicing nursing while under the influence of illicit drugs or legitimately prescribed pharmacological agents or medications and Respondent's possession of drugs without lawful authority. Respondent appeared impaired to two supervisors while on the job on June 14, 2017 and both supervisors prepared reports regarding her demeanor. As a result, Respondent underwent a urine drug screen, which tested positive for cocaine, marijuana, and opiates. Moreover, on June 16, 2017, Respondent underwent an annual urine drug screen administered by her physician and tested positive for alprazolam (prescribed), oxycodone (prescribed), 6-MAM (heroin metabolite), benzoylecgonine (cocaine metabolite), and fentanyl.

The undisputed facts show that Respondent practiced nursing while under the influence of illicit drugs or while impaired by the use of legitimately prescribed pharmacological agents or medications and was unable to practice safely by reason of alcohol or other substance use. Accordingly, under Wis. Admin. Code §§ N 7.03(6)(e) and (f), Respondent has engaged in misconduct that is grounds for discipline by the Board. In addition, Respondent's urine drug screens establish that she obtained and possessed heroin, cocaine, and unprescribed fentanyl without lawful authority, and consequently, is subject to discipline by the Board pursuant to Wis. Admin. Code § N 7.03(8)(e).

Based upon all of these violations, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

Discipline

The three purposes of discipline in a professional misconduct case 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, 209, 237 N.W.2d 689 (1976).

The Division recommends that the license of Respondent Julie L. Stamm, R.N., and her privilege to practice under the Enhanced Nurse Licensure Compact, be suspended indefinitely in order to protect the public and deter other licensees from similar conduct.

Suspension of Respondent's license and privilege to practice nursing are necessary to protect the public from other potential instances of misconduct. By practicing nursing while under the influence of prescription and illicit drugs, Respondent showed that she cannot safely or competently practice nursing at this time. Respondent disregarded the public's trust and disregarded her responsibilities to her patients. The Board cannot assure the public that the Respondent is competent or safe to practice nursing unless she is regularly monitored and required to participate in a treatment program. Imposing anything less than a suspension would not deter other credential holders from engaging in similar conduct and could imply that such conduct by a licensed nurse is tolerable.

To ensure protection of the public and her patients, the recommended discipline appropriately requires that Respondent practice under direct supervision and in a Board-approved work setting. Respondent will not be allowed to work in home health care, hospice,

pool nursing, an assisted living agency or a correctional setting because such settings will not provide adequate supervision. She will be required to provide a copy of this order to all her employers, and file quarterly work reports so her employer can report to the Board if she shows any negative behaviors or is in compliance and is safe to practice. Requiring supervision and monitoring will allow Respondent to maintain her license while she gets the necessary treatment to overcome these personal and professional issues.

The recommended discipline is also appropriate because suspension of Respondent's license will help ensure that she successfully obtains treatment before returning to the practice of nursing. Respondent engaged in serious misconduct by practicing nursing while under the influence of cocaine, marijuana, and opiates. In order to promote her rehabilitation, the recommended discipline requires Respondent enter into drug and alcohol treatment, attend sobriety support meetings such as Narcotics Anonymous and/or Alcoholics Anonymous or other similar groups, and undergo regular drug and alcohol testing to ensure she abstains from all alcohol use and does not ingest any medications or drugs not prescribed to her. The suspension may be stayed after at least three months of compliance with the conditions in the Order noted below.

In addition, the recommended discipline is consistent with Board precedent. *See In the Matter of Disciplinary Proceedings Against Christine A. Hamilton, R.N.*, Order Number 0006579 (December 12, 2019) (nurse whose drug screen at work tested positive for fentanyl and norfentanyl after empty vials were found in the bathroom garbage had license suspended by Board and was allowed to petition for a stay of the suspension after three months upon providing proof to the Board that she was in compliance with conditions and limitations placed on her license)¹; *In the Matter of Disciplinary Proceedings Against Jennifer Civitarese, R.N.*, Order Number 0005586 (January 11, 2018) (nurse who smelled of alcohol at work and had a blood alcohol concentration of 0.28 had license suspended by Board and was allowed to petition for a stay of the suspension after three months upon providing proof to the Board that she was in compliance with conditions and limitations placed on her license)²; *In the Matter of Disciplinary Proceedings Against Jennifer A. Rosenbaum, R.N.*, Order Number 0005018 (November 10, 2016) (nurse who was impaired at work had a blood alcohol level above the legal limit and a later drug screen that tested positive for unprescribed oxycodone had license suspended by Board and was allowed to petition for a stay of suspension upon providing proof to the Board that she was in compliance with conditions and limitations placed on her license)³; and, *In the Matter of Disciplinary Proceedings Against Elizabeth M. Krajewski, R.N.*, Order Number 0004648 (April 14, 2016) (nurse who smelled of alcohol at work had license suspended by Board and was allowed to petition for a stay of suspension upon providing proof to the Board that she was in compliance with conditions and limitations placed on her license).⁴

Based upon the facts of this case and the factors set forth in *Aldrich*, I find the suspension of Respondent's license, and the privilege to practice registered nursing in Wisconsin under the

¹ This decision is available online at: <https://online.drl.wi.gov/decisions/2019/ORDER0006579-00016242.pdf>

² This decision is available online at: <https://online.drl.wi.gov/decisions/2018/ORDER0005586-00014312.pdf>

³ This decision is available online at: <https://online.drl.wi.gov/decisions/2016/ORDER0005018-00013246.pdf>

⁴ This decision is available online at: <https://online.drl.wi.gov/decisions/2016/ORDER0004648-00012558.pdf>

Enhanced Nurse Licensure Compact, with the opportunity to stay the suspension pursuant to the conditions and limitations of the Order section below, is 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 the Respondent: (1) the number of allegations brought forth 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, funded by other licensees; and (7) any other relevant circumstances. *See In the Matter of Disciplinary Proceedings Against Elizabeth Buenzli-Fritz*, LS0802183CHI (Aug. 14, 2008). It is within the Board's discretion as to which of these factors to consider, whether other factors should be considered, and how much weight to give any factors considered.

Here, based upon Respondent's default, the factual allegations were deemed admitted, and the Division proved all allegations. Respondent's conduct was serious; the positive drug screen results indicated Respondent was impaired at work. Drug abuse by a nurse poses a threat to the health and safety of patients, as well as to the nurse. Respondent also failed to cooperate with the Department's investigation after repeated attempts to contact her. Finally, Respondent failed to provide a current telephone number to the ALJ, failed to appear at the prehearing conference on January 2, 2020, and failed to file an Answer to the Complaint or otherwise provide any argument regarding the allegations brought against her license to practice nursing.

The Department is a program revenue agency whose operating costs are funded by the revenue received from credential holders. 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 this proceeding, as determined pursuant to Wis. Admin. Code § SPS 2.18.

ORDER

For the reasons set forth above, IT IS ORDERED that the license of Respondent Julie L. Stamm, R.N., License No. 159584-30, and her privilege to practice in Wisconsin under the Enhanced Nurse Licensure Compact, are suspended and limited as follows:

SUSPENSION

- A.1. The license of Respondent, (license number 159584-30), to practice as a nurse in the state of Wisconsin is SUSPENDED for an indefinite period.

- A.2. The privilege of Respondent, 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.

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. 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 (Department) 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.

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 would be expected to assume responsibility for coordinating Respondent's rehabilitation and treatment as required under the terms of this Order, including immediately reporting 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 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.

Sobriety Support Meetings, such as AA/NA

- C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholics Anonymous meetings or an approved equivalent sobriety support programs in the community 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 prescribing the controlled substance. Respondent shall, at the time the controlled substance is prescribed, 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. Respondent shall disclose the name and address of such practitioner to the Department Monitor within five business days of receipt of a prescription for controlled substances.

- 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 the prescription 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 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 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, and/or Respondent may petition for modification of testing frequency per paragraph D.5.
- 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 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 pre-approval 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. This report shall not be considered formal change of address notification pursuant to Wis. Stat. § 440.11.

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://dspsmonitoring.wi.gov>.

Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all 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 after demonstrating five years of successful compliance with all terms, including at least 600 hours of approved nursing practice each year. The Board may, on its own motion, grant full Wisconsin licensure at any time.

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.

Additional Discipline

- D.8. 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.

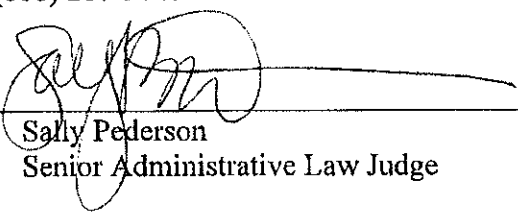
IT IS FURTHER ORDERED that Respondent pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional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

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

Dated at Madison, Wisconsin, on 14 of February, 2020.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
4822 Madison Yards Way, 5th Floor North
Madison, Wisconsin 53705
Tel. (608) 267-2745

By: _____


Sally Pederson
Senior Administrative Law Judge