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Before the
State of Wisconsin
Board of Nursing

In the Matter of Disciplinary Proceedings Against
Jere L. Daniels, L.P.N., Respondent

FINAL DECISION AND ORDER

Order **ORDER 0006738**

Division of Legal Services and Compliance Case No. 17 NUR 668

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 ^{DSPS} Chief Legal Counsel,
Member Board of Nursing Delegatee



Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of Disciplinary Proceedings Against
Jere L. Daniels, L.P.N., Respondent

DHA Case No. SPS-19-0059
DLSC Case Nos. 17 NUR 668
19 NUR 214

PROPOSED DECISION AND ORDER

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

Jere L. Daniels, L.P.N.

[REDACTED]
Neenah, WI 54956

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 Lesley McKinney
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 October 18, 2019, when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed a formal complaint against Respondent Jere L. Daniels, L.P.N., (Respondent) alleging that Respondent engaged in unprofessional conduct by obtaining, possessing, or attempting to obtain or possess a drug without lawful authority, in violation of Wis. Admin. Code § 7.03(8)(e).

The Division served Respondent on October 18, 2019, by sending via certified and first-class mail a copy of the Notice of Hearing and Complaint to Respondent's last known address on file with the Department, which was located in Neenah, Wisconsin 54956. The documents were confirmed delivered via return receipt on October 21, 2019. The recipient's signature is illegible.

The Notice of Hearing instructed the Respondent to file a written Answer to the allegations in the Complaint; however, no Answer was filed. At the expiration of the 20-day time period to file an Answer, the Administrative Law Judge (ALJ) scheduled a telephone pre-hearing conference for Monday, November 25, 2019. Notice of the pre-hearing conference was mailed to the Respondent by the ALJ on November 11, 2019, and instructed Respondent to provide the ALJ with a telephone number at which she could be reached for the conference no later than November 22, 2019. Respondent failed to provide a telephone number to the ALJ. During the conference on November 25, 2019, the ALJ was unable to reach the Respondent at the telephone number provided by the Department. The Division confirmed that there was no known, alternative valid telephone number for the Respondent. At that time, the conference proceeded without the Respondent and the Division moved for default based on Respondent's failure to appear and failure to file an answer, pursuant to Wis. Admin. Code § SPS 2.14 and § HA 1.07(3)(c).

On November 25, 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 January 3, 2020. The Division timely filed its submission.

FINDINGS OF FACT

1. Respondent Jere L. Daniels, L.P.N., is licensed in the state of Wisconsin as a practical nurse, having license number 314949-31, first issued on January 31, 2012. This license expired on April 30, 2019, and has not been renewed. Pursuant to Wis. Stat. § 440.08(3), Respondent retains the right to renew upon payment of a fee until April 29, 2024.

2. Respondent's most recent address on file with the Department is located in Neenah, Wisconsin 54956.

Facts Related to Case Nos. 17 NUR 668 and 19 NUR 214

3. At all times relevant to this proceeding, Respondent was employed as a licensed practical nurse, at a nursing home (Home) and assisting living facility (Facility), located in Appleton, Wisconsin.

4. On October 17, 2017, Nurse A informed the Home's Director of Nursing (DON) that Respondent appeared to have made narcotic medication errors during her previous shift.

5. The Home's DON reported this to the Home's Administrator who contacted the Appleton Police Department to request the presence of an officer. The Administrator went to the Facility to speak with Respondent.

6. The Administrator noted that Respondent seemed "somewhat incoherent and appeared sedated" when he spoke to her.

7. Respondent admitted taking two (2) 15mg tablets of morphine sulfate from the medication cart. This medication was neither prescribed to, nor belonged to, Respondent.

8. Respondent was suspended from her duties at the Home pending further investigation and subsequently terminated.

9. On May 17, 2019, the Department received a complaint alleging Respondent entered a Facility resident's apartment, absent a request for help, and diverted the resident's tramadol.

10. On June 25, 2019, Respondent admitted to the diversion and personal use of both the morphine and the tramadol to the Department's attorney.

Facts Related to Default

11. The Notice of Hearing and Complaint were served on Respondent on October 18, 2019, by both certified and first-class mail, consistent with Wis. Admin. Code § SPS 2.08. The notice of hearing instructed Respondent: "If you do not provide a proper answer within 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."

12. Respondent failed to file an Answer to the Complaint.

13. At the expiration of the 20-day time period to file an Answer, the Administrative Law Judge (ALJ) scheduled a telephone pre-hearing conference for Monday, November 25, 2019. Notice of the pre-hearing conference was mailed to the Respondent by the ALJ on November 11, 2019, and instructed Respondent to provide the ALJ a telephone number at which she could be reached for the conference no later than November 22, 2019. Respondent failed to provide a telephone number.

14. The Respondent could not be reached by telephone and failed to participate in the prehearing conference on November 25, 2019.

15. On November 25, 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 January 3, 2020. The Division timely filed its submission.

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

As stated in the November 25, 2019 Notice of Default and Order, Respondent is in default for failing to file an answer to the Complaint. Wis. Admin. Code §SPS 2.09. In addition, the Respondent was found in further default for failing to provide a telephone number after requested, and failing to answer or otherwise participate in the telephone conference held on November 25, 2019. *See* Wis. Admin. Code § SPS 2.14; Wis. Admin. Code § HA 1.07(3). Accordingly, an order may be entered against Respondent on the basis of the Complaint and other evidence. *See* Wis. Admin. Code § SPS 2.14; Wis. Admin. Code § HA 1.07(3).

Violations

The Division alleges that Respondent is subject to discipline pursuant to Wis. Stat. §§ 441.07(1g)(b) and (d), which grants the Board 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/or engaging in misconduct or unprofessional conduct. It is a violation of the standards of conduct and grounds for disciplinary action if a nurse obtains, possesses, or attempts to obtain or possess a drug without lawful authority. Wis. Admin. Code § N 7.03(8)(e). The Division alleges as grounds for disciplinary action that the Respondent took medication not belonging to her and diverted a resident's medication for her own personal use. (Complaint, ¶¶7, 9-11).

Because Respondent failed to file an Answer to the Complaint, Respondent is in default and the ALJ may take the allegations in the Complaint as true and enter an order on the basis of the Complaint. *See* Wis. Admin. Code § SPS 2.14. According to the Complaint the Respondent also admitted to the improper diversion and personal use of residents' medication. The undisputed facts and Respondent's admissions establish that Respondent obtained, possessed, or attempted to obtain or possess a drug without lawful authority. She also diverted and possessed controlled substances for personal use. Respondent had neither a prescription for, nor lawful purpose for possessing the controlled substances. Therefore, Respondent's actions constitute a violation of Wis. Admin. Code § N 7.03(8)(e) and is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

Appropriate 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 requests that the right to renew the practical nursing license of Respondent, Jere L. Daniels, L.P.N., and privilege to practice under the Enhanced Nurse Licensure Compact be suspended with certain terms and conditions. The recommended discipline is consistent with the purposes articulated in *Aldrich*. Promoting rehabilitation is one of the purposes of discipline. Respondent admitted to diverting controlled substances for personal use. Requiring supervision and monitoring will allow Respondent to maintain her license while she gets the necessary treatment to overcome any substance abuse issues.

“Protection of the public is the purpose of requiring a license.” *State ex rel. Green v. Clark*, 235 Wis. 628, 631, 294 N.W. 25 (1940). When a license is granted to an individual, the Board is assuring the public that the licensed individual is competent in his or her profession. *Stringez v. Dep’t of Regulation & Licensing Dentistry Examining Bd.*, 103 Wis. 2d 281, 287, 307 N.W.2d 664 (1981). It follows that if the Board, via the Department, cannot assure the public of the licensee’s competence to practice the profession, then suspension is appropriate. *Gilbert v. State Medical Examining Bd.*, 119 Wis. 2d 168, 189–90, 349 N.W.2d 68 (1984). In the present case, the Board cannot assure the public that an individual who diverts controlled substances for unprescribed, personal use is competent or safe to practice. In order to ensure that Respondent will practice nursing safely the Board correctly seeks suspension of her license and require that she comply with monitoring and participation in a treatment program as conditions for obtaining a stay of the suspension.

Suspension of Respondent’s right to renew her practical nursing license and privilege to practice nursing is necessary to protect the public from other instances of misconduct. The abuse of prescription drugs shows that Respondent is not safe or competent to practice nursing. The circumstances of Respondent’s diversion show she disregarded the public’s trust and her responsibilities to her patients. Respondent also disregarded the law. Imposing anything less than suspension would not aid in deterrence but could imply that such conduct by a licensed nurse is tolerable. Accordingly, suspension remains the only appropriate way in which to safeguard the public.

The recommended discipline is also consistent with Board precedent. *See In the Matter of Disciplinary Proceedings Against James R. Campbell, R.N.*, Order Number 0005733 (April 26, 2018) (nurse who diverted controlled substances for personal use and was subsequently convicted of possession of a controlled substance, had right to renew his license indefinitely suspended with an allowance to petition for a stay of that suspension after six (6) months upon providing proof to the Board that he was in compliance with conditions and limitations placed on his license).¹ *See also In the Matter of Disciplinary Proceedings Against Erica M. Maika, R.N.*, Order Number 0005433 (September 14, 2017) (nurse who admitted to diverting controlled substances for personal use had license suspended by the Board, and was allowed to petition for a stay of the suspension upon providing proof that she was in compliance with conditions and limitations placed upon her license).² *See also In the Matter of Disciplinary Proceedings Against Angela Peters, R.N.*, Order Number 0005017 (November 10, 2016) (nurse who admitted diverting controlled substances for personal use had license suspended with an allowance to petition for a stay of that suspension after three (3) months upon providing proof that she was in compliance with conditions and limitations placed upon her license).³

Based upon the facts of this case and the factors set forth in *Aldrich*, I find suspension of Respondent’s right to renew her practical nursing license and privilege to practice practical nursing in Wisconsin under the Enhanced Nurse Licensure Compact, as well as the conditions and limitations of the Order section below, are warranted.

¹ This decision is available online at: <https://online.drl.wi.gov/decisions/2018/ORDER0005733-00014599.pdf>

² This decision is available online at: <https://online.drl.wi.gov/decisions/2017/ORDER0005433-00014012.pdf>

³ This decision is available online at: <https://online.drl.wi.gov/decisions/2016/ORDER0005017-00013245.pdf>

Costs

The Division seeks imposition of costs in this matter. 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 considered the following factors when determining if all or part of the costs should be assessed against the Respondent: (1) the number of counts charged, contested and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the prosecutor; (4) the respondent's cooperation with the disciplinary process; (5) prior discipline, if any; (6) the fact that the Department is a "program revenue" agency, whose operating costs are funded by the revenue received from licenses, and the fairness of imposing the costs of disciplining a few members of the profession on the vast majority of the licensees who have not engaged in misconduct; and (7) any other relevant circumstances. *See In the Matter of Disciplinary Proceedings Against Elizabeth Buenzli-Fritz*, LS0802183CHI (Aug. 14, 2008). It is within the Board's discretion as to which, if any, of these factors to consider, whether other factors should be considered, and how much weight to give any factors considered.

In the present matter the Complaint alleged two separate instances of the Respondent taking medication belonging to residents. The Respondent admitted to both occurrences and did not contest the Division's complaint against her. Moreover, the alleged conduct is serious. Taking controlled substances on the job, without a valid prescription and when those medications are intended for the residents the Respondent was supposed to be caring for is egregious. Thus, the Division justifiably seeks to suspend the Respondent's privilege to continue practicing as a nurse unless significant conditions and monitoring are in place. The level of discipline recognizes the need to protect the public and sanction the Respondent while encouraging her rehabilitation. This is not a case where the Division wasted resources or incurred additional costs by alleging multiple counts and then failing to prove those counts. Regardless, the Department relies upon credential holders to fund operating costs of the program and agency. As such, fairness weighs heavily in requiring Respondent to pay the additional costs of this proceeding. Finally, by her default, the Respondent has failed to present any argument as to why full costs should not be assessed.

Using *Noesen* as guidance, considering the Board's historical reasoning, and considering and applying that reasoning to the above facts, I find that the full costs of this proceeding should be assessed against Respondent and the amount of costs should be determined pursuant to Wis. Admin. Code § SPS 2.18.

ORDER

Accordingly, it is hereby ORDERED that the right of Jere L. Daniels, L.P.N., (license number 314949-31), to renew her license as a practical nurse in the state of Wisconsin is SUSPENDED as follows:

SUSPENSION

- A.1. The right to renew the license of Respondent, (license number 314949-31), to practice as a practical 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 of Respondent's right to renew her Wisconsin practical nursing license may be stayed upon Respondent petitioning the Board and providing proof, which the Board or its designee determines sufficiently establishes that Respondent is in compliance with the provisions of Sections C and D of this Order, for a period of at least 30 (thirty) consecutive days.
- B.2. The Board or its designee may, without hearing, remove the stay and suspend Respondent's license 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.
- 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 sixty (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 treatment provider (hereinafter Treater) acceptable to the Board or its designee. 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 will be responsible for coordinating Respondent's rehabilitation and treatment as required under the terms of this Order, and 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 treatment program shall include both of the following:
 - (a.) individual treatment sessions at a frequency to be determined by Treater; and
 - (b.) participation in either (i) group therapy sessions at a frequency to be determined by the Treater; and/or (ii) participation in a community based substance abuse/recovery program (e.g. NA/AA) at a frequency to be determined by Treater and with verification of attendance reported to the Treater.

The treatment program may end only with the recommendation of the Treater and the approval of the Board or its designee, after receiving a petition for modification as required by D.5., below.

- C.5. The Respondent shall execute a release authorizing the Treater to submit formal written reports to the Department Monitor on at least quarterly basis, or as directed by the Department Monitor. These reports shall assess Respondent's progress in drug and alcohol treatment and verify compliance with the program requirements set forth in paragraph C.4 above.

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

- C.7. Respondent shall abstain from all personal use of alcohol.
- C.8. 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 licensed 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 (5) business days of receipt of a prescription for controlled substances.
- C.9. 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.10. 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.10. Respondent shall report to Treater and the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within twenty-four (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.11. Respondent shall enroll and begin participation in a drug and alcohol screening program (Screening Program) which is approved by the Department.
- C.12. At the time Respondent enrolls in the Screening Program, Respondent shall review all of the rules and procedures made available by and required by the Screening Program.

Failure to comply with all requirements for participation in drug and alcohol screen monitoring established by the Screening Program is a violation of this Order. The requirements shall include:

- (a) Contact with the Screening Program on at least a weekly basis and as directed by the Screening Program, 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 Screening Program within five (5) hours of notification of a test.
- C.13. The Screening Program shall require the testing of specimens at a frequency of not less than forty-nine (49) times per year (one of which must be a hair test), for the duration 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.14. If any urine, blood, sweat, nail, hair, saliva, or other specimen tests positive or is suspected positive for any controlled substances, 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.15. In addition to any requirement of the approved Screening 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.16. 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.17. The Screening Program shall submit information and reports to the Department Monitor as directed.

Practice Limitations

- C.18. Respondent shall not work as a nurse or other health care provider in a setting in which Respondent has access to controlled substances.
- C.19. 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.20. 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.21. Respondent may not work in a home health care, hospice, pool nursing, assisted living facility, or as a nurse in a correctional setting.
- C.22. 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.23. It is Respondent's responsibility to arrange for quarterly written reports to be submitted to the Department Monitor from 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.24. Respondent shall report to the Board any change of employment status, residence, address, or telephone number within five (5) 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:

www.dspsmonitoring.wi.gov

Required Reporting by Respondent

D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, approved Screening 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 Screening 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 Screening 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 (1) 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 (5) 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 treatment, 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 the 21st day of January, 2020.

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: 

Kristin P. Fredrick
Administrative Law Judge