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**Before the
State of Wisconsin
Dieticians Affiliated Credentialing Board**

In the Matter of the Disciplinary Proceedings
Against Melanie J. Mertes, C.D., Respondent.

FINAL DECISION AND ORDER

Order **ORDER 0007394**

Division of Legal Services and Compliance Case No. 18 DAB 002

The State of Wisconsin, Dieticians Affiliated Credentialing Board, 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, Dieticians Affiliated Credentialing Board.

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 25 day of May, 2021.

Member
Dieticians Affiliated Credentialing Board



Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of Disciplinary Proceedings Against
Melanie J. Mertes, C.D., Respondent

DHA Case No. SPS-20-0036
DLSC Case No. 18 DAB 002

PROPOSED DECISION AND ORDER

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

Melanie J. Mertes

Duluth, MN 55811

Wisconsin Dietitians Affiliated Credentialing Board
P.O. Box 8366
Madison, WI 53707-8366

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

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

PROCEDURAL HISTORY

On December 9, 2020, the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed a formal complaint against Respondent Melanie J. Mertes, C.D., alleging that Respondent engaged in unprofessional conduct that constituted grounds for disciplinary action on her license by engaging in conduct which tended to constitute a danger to the health, welfare, or safety of the public, in violation of Wis. Admin. Code § DI 5.01(22), and by failing to send a notice of a conviction by first class mail to the department within 48 hours after the entry of the judgment of conviction, in violation of Wis. Stat. § 440.03(13)(am). The Department referred the matter to the Division of Hearings

and Appeals, and Administrative Law Judge (ALJ) Sally Pederson was assigned to preside over a hearing in the matter.

The Notice of Hearing and the Complaint in this matter were served on Respondent by the Division on December 9, 2020. The Notice and Complaint were sent by certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08, to the address on file with the Department.¹ An Answer to a Complaint was to be filed within 20 days from the date of service of the Complaint. Wis. Admin. Code § SPS 2.09(4). No Answer has been filed. Following expiration of the 20-day time period to file an Answer, the undersigned ALJ scheduled a telephone prehearing conference for January 14, 2021, at 10:30 am. Notice of this prehearing conference was sent to both parties, with instructions that Respondent provide to the ALJ a telephone number at which Respondent could be reached for the conference no later than January 13, 2021. Respondent failed to provide a telephone number.

At the prehearing conference held on January 14, 2021, the ALJ attempted to contact Respondent at the telephone number on record with the Department and provided by the Division, whereupon the ALJ left a voicemail for Respondent indicating that Respondent should contact the ALJ within 15 minutes at the telephone number provided, failing which the ALJ would proceed with the conference without Respondent. Respondent did not contact the ALJ at the telephone number provided by the ALJ. Based upon Respondent's failure to file an Answer to the Complaint and failure to appear at the prehearing conference, the Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c).

On January 14, 2021, the ALJ granted the Division's motion and issued a Notice of Default against Respondent and ordered that the Division file a recommended proposed decision and order by February 15, 2021. The Division timely filed its submission.

FINDINGS OF FACT

Facts Related to the Alleged Violations

Findings of Fact 1-6 are taken from the Division's Complaint filed against Respondent in this matter.

1. Respondent Melanie J. Mertes is certified in the State of Wisconsin as a dietitian, having credential number 2323-29, first issued on December 27, 2010, and current through October 31, 2020. Pursuant to State of Wisconsin Emergency Order #2 (EO #2),² Respondent's credential remains active until 30 days after the expiration of EO #2.

2. The Respondent's most recent address on file with the Department is 219 3rd Street, Apartment 211, Hudson, Wisconsin 54016.

¹ Hudson, WI 54016. On January 20, 2021, Respondent informed the parties that her current address is: Duluth, MN 55811.

² <https://dsps.wi.gov/Documents/EO2AidHealthcareFacilitiestoProvideTreatment.pdf>

3. On April 4, 2016, Respondent was arrested for operating while intoxicated as a third offense.

4. On May 17, 2016, Respondent underwent an alcohol and drug (AODA) assessment, was diagnosed with Alcohol Use Disorder - Severe, and was admitted for treatment. Respondent was successfully discharged from treatment on July 6, 2016.

5. On October 28, 2016, Respondent was convicted in St. Croix County Circuit Court case number 2016CT000088 of Operating While Under the Influence, 3rd offense, in violation of Wis. Stat. §§ 346.63(1)(a), 346.65(2)(am)3., and 343.301(1g). Respondent did not report this conviction to the Board.

6. On November 26, 2019, Respondent was admitted again for treatment for Alcohol Use Disorder - Severe and was successfully discharged from treatment on March 5, 2020.

Facts Related to Default

7. The Notice and Complaint were served on Respondent at her last known address on file with the Department on December 9, 2020, by both certified and first-class mail, pursuant to Wis. Admin. Code § SPS 2.08. The Notice 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."

8. The Division also emailed a copy of the Notice of Hearing and Complaint to Respondent at her last known email address on file with the Department on December 9, 2020.

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

10. After the expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for January 14, 2021. The ALJ sent notice of the conference by U.S. mail and email to Respondent. The notice ordered Respondent to contact the ALJ no later than January 13, 2021, 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.

11. Respondent failed to contact the ALJ by January 13, 2021 to provide her telephone number.

12. At the prehearing conference on January 14, 2021, Respondent failed to appear. The Division provided the ALJ with Respondent's telephone number on file with the Department. The ALJ attempted to contact Respondent at the telephone number and left a voicemail for Respondent indicating that Respondent should contact the ALJ within 15 minutes at the telephone number provided, failing which the ALJ would proceed with the conference without Respondent. Respondent did not contact the ALJ at the telephone number provided by the ALJ.

16. On January 14, 2021, the Division moved for default, pursuant to Wis. Admin. Code §§ SPS 2.14 and HA 1.07(3)(c).

17. On January 14, 2021, the ALJ granted the Division's motion and issued a Notice of Default and ordered that the Division file and serve a recommended proposed decision and order by February 15, 2021.

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

DISCUSSION

Jurisdictional Authority

The Wisconsin Dietitians Affiliated Credentialing Board (Board) has jurisdiction over this matter pursuant to Wis. Stat. § 448.87(1). Wisconsin Stat. § 440.03(1) provides that the Department "may promulgate rules defining uniform procedures to be used by the department . . . and all examining boards and affiliated credentialing boards attached to the department or an examining board, for . . . conducting [disciplinary] hearings." These rules are codified in Wis. Admin. Code Ch. SPS 2.

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

The Division properly served the Notice and Complaint upon Respondent by mailing copies to her at her last known address. Wis. Admin. Code § SPS 2.08(1). Pursuant to 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).

Respondent violated Wis. Admin. Code § SPS 2.09(4) by failing to file an Answer to the Complaint within 20 days from the date of service. Respondent also failed to appear at the prehearing telephone conference on January 14, 2021, failed to provide a current telephone number as ordered by the ALJ, and failed to respond to the ALJ's voicemail message. Therefore, Respondent is in default, and findings may be made and an order may be entered on the basis of the Complaint.

On January 20, 2021, Respondent replied via email to the Notice of Default and Order that had been properly issued on January 14, 2021. Respondent acknowledged that she had received the Notice of Default and Order and had received the ALJ's voicemail, to which she had not timely responded. Respondent did not request that the Notice of Default and Order be vacated.

Violations

The Board has the authority to impose discipline against the Respondent following an investigation and disciplinary hearing if the Board determines that a that a dietician has “engaged in unprofessional conduct,” and “violated this subchapter or any rule promulgated under this subchapter.” Wis. Stat. § 448.87(2)(f), and (h), respectively. The Board has promulgated rules related to unprofessional conduct that are set forth in Wisconsin Admin. Code § DI 5.01.

It is undisputed that, on October 28, 2016, Respondent was convicted in St. Croix County Circuit Court case number 2016CT000088 of Operating While Under the Influence, 3rd offense, in violation of Wis. Stat. §§ 346.63(1)(a), 346.65(2)(am)3., and 343.301(1g). Driving while intoxicated constitutes a danger to the health, welfare, or safety of client, patient, or public, intoxicated constitutes conduct that poses a danger to the health, welfare, or safety of client, patient, or public, in violation of Wis. Admin. Code § DI 5.01(22).

In addition, Respondent failed to send a notice of the conviction by first class mail to the Department within 48 hours after the entry of the judgment of conviction. By failing to do so, Respondent violated Wis. Stat. § 440.03(13)(am).

Because she violated these rules of professional conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 448.87(2)(f), and (h) and Wis. Admin. Code § DI 5.01.

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 has recommended that Respondent’s credential and any appurtenant right to renew be subject to an indefinite suspension, with the ability to stay the suspension upon showing compliance with the limitations set forth in the Order section below.

The recommend discipline is consistent with the purposes articulated in *Aldrich*. Promoting rehabilitation is one of the purposes of discipline, but in this case, the Respondent’s potential for rehabilitation is unknown. Respondent failed to report her OWI 3rd conviction to the Board. Additionally, the facts set forth in the Complaint show that despite undergoing treatment, Respondent has relapsed at least once. The Division’s recommendation will allow Respondent to work towards rehabilitation while still ensuring the health, safety, and welfare of the public while she does so. Finally, having obtained no Answer from Respondent following the Notice and Complaint, and in light of Respondent’s failure to appear for the prehearing conference, the Board cannot determine whether any rehabilitative measures would be effective.

Moreover, Respondent’s conduct was egregious and posed a danger to public safety. “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, Wisconsin 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 state 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).

Respondent's decision to drive while intoxicated not only endangered her own life, but also the lives of the public on the roadways. By failing to report her subsequent conviction related to that conduct, Respondent prevented the Board from taking prompt action to ensure public safety. The Board cannot assure the public of the competency and safety of an individual who fails to cooperate with lawful investigations into her conduct and who has a history of alcohol or drug abuse and relapse. A suspension and limitations on Respondent's credential and right to renew are necessary to protect the public from other instances of misconduct, and requiring Respondent to be monitored and participate in treatment are needed for the Board to ensure that Respondent will practice her profession safely in the future.

In addition, suspension and limitations on Respondent's credential and any appurtenant right to renew will serve to deter other credential holders from engaging in similar egregious conduct. Respondent also failed to respect the governing authority that issued her credential by failing to respond to requests and failing to participate in litigation of this matter. A suspension will send the message that credential holders must cooperate with the governing authority or face serious consequences.

The Board has not previously considered a case regarding a respondent with OWI convictions, relapses, and failure to report convictions to the Board. However, other health professions have addressed such conduct, and the Board takes its cue from that precedent. *See In the matter of Disciplinary Proceedings Against Ryan J. Nelson, R.Ph.*, Board Order No. 07011 (September 24, 2020) (Board issued a suspension and limitations on a pharmacist's license after being convicted of OWI-1st and being diagnosed with alcohol use disorder-severe);³ *In the Matter of the Application for a Registered Nurse License, Joni Eberhardy, Applicant*, Board Order 04211 (August 20, 2015) (Nurse was issued a limited license which required compliance with limitations on her license, including treatment, based on diagnoses of alcohol dependency-severe, and alcohol use disorder-mild to moderate).⁴

In light of the facts of this case, and the factors set forth in *Aldrich*, it is appropriate to suspend and place limitations on Respondent's certificate to practice as a dietician in Wisconsin, as set forth in the Order section below.

Costs

The Board is vested with discretion concerning whether to assess all or part of the costs of this proceeding against Respondent. *See* Wis. Stat. § 440.22(2). In exercising such discretion,

³ Available online at: <https://online.drl.wi.gov/decisions/2020/ORDER0007011-00017057.pdf>

⁴ Available online at: <https://online.drl.wi.gov/decisions/2015/ORDER0004211-00011725.pdf>

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 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, 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.

Considering the above factors, it is appropriate for Respondent to pay the full costs of the investigation and prosecution of these proceedings. Respondent defaulted and the factual allegations identified in this decision were deemed admitted. By driving while intoxicated, Respondent engaged in dangerous and reckless behavior that put her own safety and the safety of the public at risk. Moreover, Respondent failed to provide current contact information to the ALJ, failed to appear at the prehearing conference, and failed to file an Answer to the Complaint, or otherwise provide any argument regarding the allegations brought against her. Lastly, 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 certificate to practice as a dietitian in the state of Wisconsin issued to Respondent, Certificate No. 2323-29, is SUSPENDED as follows:

SUSPENSION

- A.1. The certification of Respondent, (credential number 2323-29), as a dietitian in the state of Wisconsin is SUSPENDED for an indefinite period.

STAY OF SUSPENSION

- B.1. The suspension of Respondent's Wisconsin certification as a dietitian 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, for a period of at least 30 consecutive days.

- 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 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 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 Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation and treatment as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as required by this Order, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only with the approval of the Board or its designee, after receiving a petition for modification as required by D.5., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in drug and alcohol treatment.

Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collection sites, current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department to: (a) obtain all specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation with Treater, treatment facilities and personnel, laboratories, and collection sites. Copies of these releases shall immediately be filed with the Department Monitor.

AA/NA Meetings

- C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholics Anonymous meetings or an approved equivalent program for recovering professionals, at the frequency recommended by Treater, but no less than twice per week. Attendance of Respondent at such meetings shall be verified by the speaker or chair and reported quarterly to Treater and the Department Monitor.

Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed, or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner 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 may be a hair test at the Board's discretion), 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 practice only under the direct supervision of a certified dietitian 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. 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 dietitian currently or in the future.
- C.22. 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 as a dietitian 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 dietitian 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.23. 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, payment of costs, and other information required by this Order shall be mailed, e-mailed, faxed, or delivered to:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <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 Treater, the treatment facility, the 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 Treater or the 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 dietitian 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, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 448.03.

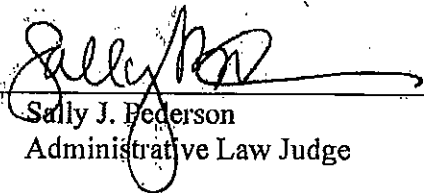
IT IS FURTHER ORDERED that Respondent pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional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

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 February 19, 2021.

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

By:


Sally J. Pederson

Administrative Law Judge