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

In the Matter of the Disciplinary Proceedings
Against Glenda S. Walstrom, L.P.N.,
Respondent.

FINAL DECISION AND ORDER

Order No. **ORDER 0007879**

**Division of Legal Services and Compliance Case Nos. 20 NUR 097, 20 NUR 554,
and 21 NUR 274**

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 10th day of March, 2022.

A handwritten signature in black ink, appearing to be "M. J. ...", written over a horizontal line.

Member
Board of Nursing



Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of Disciplinary Proceedings
Against Glenda S. Walstrom, L.P.N.,
Respondent.

DHA Case No. SPS-21-0086
DLSC Case Nos. 20 NUR 097,
20 NUR 554, and 21 NUR 274

PROPOSED DECISION AND ORDER

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

Glenda S. Walstrom, L.P.N.

New London, WI 54961

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 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 Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division) served the Notice of Hearing and the Complaint in this matter on Glenda S. Walstrom, L.P.N. (Respondent) on November 12, 2021, by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08. An Answer to a Complaint must be filed within 20 days from the date of service of the Complaint. Wis. Admin. Code § SPS 2.09(4). No Answer was filed.

On December 3, 2021, following expiration of the 20-day period to file an Answer, the undersigned Administrative Law Judge (ALJ) scheduled a telephone prehearing conference for

December 17, 2021, at 10:00 a.m. Notice of this prehearing conference was sent to both parties via first class mail and email, consistent with Wis. Admin. Code § HA 1.03(1). The Respondent's Notice was sent to her last known mailing address and last known email address on file with the Department, but both the mail and email were returned as undeliverable. The Notice instructed the Respondent to contact the ALJ with a telephone number at which she could be reached for the conference no later than December 16, 2021. The Respondent did not contact the ALJ to provide a telephone number for the prehearing conference.

On December 17, 2021, Attorney Lesley McKinney appeared for the prehearing conference on behalf of the Department. Because neither the ALJ nor the Department had a valid phone number for the Respondent, she could not be reached. The ALJ held the line open for 10 minutes, consistent with Wis. Admin. Code § HA 1.07(3)(c), but the Respondent did not contact the ALJ. Based on the Respondent's failure to file an Answer to the Complaint and failure to appear at the prehearing conference, the Department moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c).

On December 27, 2021, the ALJ issued a Notice of Default and Order finding the Respondent in default and ordering that the Department file a recommended proposed decision and order no later than January 18, 2022. The Department timely filed its submission.

FINDINGS OF FACT

Facts Related to the Alleged Violations

Findings of Fact 1-17 are taken from the Division's Complaint in this matter.

1. The Respondent is licensed in the state of Wisconsin as a licensed practical nurse, having license number 323200-31, first issued on July 27, 2018, and currently expired as of April 30, 2021.¹

2. The Respondent's most recent address on file with the Department is

20 NUR 097

3. On February 4, 2020, the Respondent pled guilty to and was convicted of one count of Possession of THC, a misdemeanor, in violation of Wis. Stats. § 961.41(3g)(e), in Waupaca County Circuit Court case number 2018CF000421. The Judgment of Conviction was entered on February 6, 2020.

4. The Respondent did not report this conviction to the Board until February 25, 2020.

¹ Due to Governor Tony Evers' 2020 Executive Order #2, all health care provider licenses or certificates will not expire and will remain active until thirty days after the end of the declared emergency (which is currently extended until February 24, 2022). Therefore, Respondent's license remains active.

5. On April 2, 2020, Department staff, on behalf of the Wisconsin Board of Nursing (Board), sent an email to the Respondent at her email address of record requesting that she provide additional information and documentation for her conviction by April 16, 2020. The Respondent did not respond.

6. On April 17, 2020, Department staff, on behalf of the Board, sent an email to the Respondent at her email address of record requesting that she provide additional information and documentation for her conviction by April 24, 2020. The Respondent did not respond.

7. On April 27, 2020, Department staff, on behalf of the Board, sent a letter to the Respondent at her mailing address of record requesting that she provide additional information and documentation for her conviction by May 4, 2020. The Respondent did not respond.

8. On June 15, 2020, the Respondent sent an email to the Department stating she would not be able to provide the requested additional information and documentation.

9. On June 17, 2020, the Department staff, on behalf of the Board, sent an email to the Respondent at her email address of record requesting that she provide additional information and documentation about her conviction by July 1, 2020. The Respondent did not provide the requested additional information and documentation.

20 NUR 554

10. On November 20, 2020, the Department received a complaint alleging that the Respondent diverted narcotics at an assisted living facility in New London, Wisconsin (Facility) between November 2 - 5, 2020.

11. The Facility's narcotic contingency box was returned to the issuing pharmacy on November 5, 2020. The pharmacy noted that 6 tablets of Hydrocodone/APAP 10/325mg, 10 tablets of Oxycodone/APAP 5/325mg, and the sign out sheet were missing.

12. On November 15, 2020, Facility staff reported that the Respondent was acting oddly and had "pinpoint pupils and was swaying back and forth. She didn't seem to know what was going on." The Respondent was taken to the hospital for evaluation and refused to submit to a blood drug screening test stating she was on probation for marijuana, and she would go to jail if her probation officer found out that she had been using marijuana.

13. The Respondent was terminated from her position at the Facility for her refusal to submit to a blood drug screening test.

14. On January 26, 2021, the Respondent provided a written response to the allegations of the complaint to the Department in which she stated that she has had a marijuana prescription since 2017 in Michigan, where she resided before moving to Wisconsin. She acknowledged that she did not want to take a drug test at the hospital because she was on probation for possessing THC in Wisconsin and did not want to jeopardize her "freedom."

21 NUR 274

15. On April 27, 2021, the Department received a complaint referred from the Wisconsin Department of Health Services alleging that on April 6, 2021, at approximately 5:00 a.m., the Respondent had gone missing during a shift at a community living center in Manawa, Wisconsin (Center). While the Respondent was missing, two patients did not receive their morning medications, including controlled substances.

16. The Respondent was located on Center property at 6:10 a.m., an ambulance was called, and the Respondent was evaluated at a hospital before being released to her home.

17. On May 6, 2021, the Respondent admitted to the Department that she left the Center while still on duty because “something spiritual happened to [her]” during a severe thunderstorm. She asserted that all the residents in her care were safe when she left the center to “face her fears” in the storm. The Respondent admitted to the Department that “time got away” from her during her “awakening,” so she did not complete her medications pass that morning.

Facts Related to Default

18. The Notice and Complaint were served on the Respondent at her address of record with the Department on November 12, 2021, by both certified and regular mail.

19. The Respondent failed to file an Answer to the Complaint within 20 days of the date of service.

20. After the expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for December 17, 2021. Notice of this prehearing conference was sent to both parties with instructions that the Respondent contact the ALJ with a telephone number at which she could be reached for the conference no later than December 16, 2021. The Respondent did not contact the ALJ.

21. At the prehearing conference held on December 17, 2021, Attorney Lesley McKinney appeared on behalf of the Department. The Respondent failed to appear.

22. On December 17, 2021, the Department moved for default based on the Respondent’s failure to file an Answer to the Complaint and failure to appear for the prehearing conference pursuant to Wis. Admin. Code §§ SPS 2.14 and HA 1.07(3)(c).

23. On December 27, 2021, the ALJ issued a Notice of Default and ordered that the Division file and serve a recommended proposed decision and order no later than January 18, 2022.

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

DISCUSSION AND CONCLUSIONS OF LAW

Jurisdictional Authority

The Board has jurisdiction over this matter pursuant to Wis. Stat. § 441.07(1c) and (1g). The undersigned ALJ has authority to preside over this disciplinary proceeding pursuant to Wis. Admin. Code § SPS 2.10(2) and in accordance with Wis. Stat. § 227.46(1).

Default

The Division properly served the Notice and Complaint on the Respondent by mailing a copy to her address of record with the Department. Wis. Stat. § 440.11(2) and Wis. Admin. Code § SPS 2.08(1). 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.” Wis. Admin. Code § SPS 2.14. Failure to appear at a telephone prehearing conference is grounds for default if any of the following conditions exist for more than 10 minutes after the scheduled time for conference: (1) failure to provide a telephone number to the ALJ after it had been requested; (2) failure to answer the telephone; (3) failure to free the line for the proceeding; or (4) failure to be ready to proceed with the prehearing conference as scheduled. Wis. Admin. Code § HA 1.07(3)(c).

Here, the Respondent is in default for failing to Answer the Division’s Complaint within 20 days of service and for failing to appear at the December 17, 2021 prehearing conference. Findings and an order may therefore be entered based on the Complaint and other evidence. Wis. Admin. Code § SPS 2.14.

Burden of Proof

The burden of proof in disciplinary proceedings before the Board is a preponderance of the evidence. *See* Wis. Stat. § 440.20(3). Because the Respondent is in default and provided no Answer to the Division’s Complaint, the Division’s allegations are deemed admitted. Wis. Admin. Code §§ SPS 2.09(3) and SPS 2.14.

Violations

Based on the uncontested facts in this case, the Respondent’s conduct constitutes multiple grounds for disciplinary action against her nursing license.

First, she is subject to discipline pursuant to Wis. Admin. Code § N 7.03(1)(c) and Wis. Stat. § 440.20(5)(a) for failing to respond in a timely manner to the Division’s requests for information in connection with the investigation of case number 20 NUR 097. The Division contacted the Respondent three times in April 2020 requesting additional information regarding its investigation. She did not respond until June 2020, at which time she stated she would be unable to provide the requested information.

Second, the Respondent is subject to discipline pursuant to Wis. Admin. Code. § N 7.03(1)(h) for failing to notify the Board of a misdemeanor conviction in writing within 48 hours after the entry of the judgment of conviction. She did not report her marijuana possession conviction, for which the judgment of conviction was entered on February 6, 2020, until February 25, 2020.

Third, the Respondent is subject to discipline pursuant to Wis. Admin. Code § N 7.03(6)(d) for leaving a nursing assignment without properly notifying appropriate supervisory personnel and ensuring the safety and welfare of her patients. During a nursing shift at a community living center on April 6, 2021, she could not be located for approximately an hour and ten minutes. She was later located outdoors on facility property, away from her assigned work area. As a result, two patients did not receive their scheduled medications.

Fourth, the Respondent is subject to discipline pursuant to Wis. Admin. Code § N 7.03(6)(f) for being unable to practice safely by reason of alcohol or other substance abuse. Facility staff noticed her exhibiting behavior evidencing drug use during a nursing shift on November 15, 2020. She appeared disoriented, had pinpoint pupils, and was swaying back and forth. She then refused to submit to a blood draw for a drug screening and later explained she would go to jail if her probation officer found out she was using marijuana.

Finally, the Respondent is subject to discipline pursuant to Wis. Admin. Code § N 7.03(8)(e) for possessing a drug without lawful authority, as evidenced by her marijuana possession conviction. Due to the Respondent's history of practicing while impaired, I also find this conviction substantially related to her nursing practice. Therefore, I find that the Respondent is subject to discipline pursuant to Wis. Admin. Code § N 7.03(2).

Based on the above, the Board has authority to discipline the Respondent pursuant to Wis. Stat. § 441.07(1g)(b), (c), and (d), and Wis. Admin. Code § N 7.03(1)(c), (1)(h), (2), (6)(d), (6)(f), and (8)(e).

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 Respondent's license to practice as a registered nurse be suspended indefinitely. The Respondent may petition the Board at any time for a stay of the suspension, and the Board may impose conditions or limitations on the Respondent's license that it deems appropriate to protect the health, safety, and welfare of patients and the public. In addition, should the Respondent have a Wisconsin multistate license issued pursuant to the Enhanced Nurse Licensure Compact, she would be prohibited from practicing in any other Compact state while encumbered by any term of the proposed order. *See* Wis. Stat. § 441.51(5)(b).

As identified in the Order below, I adopt the Department's recommendation except that I also recommend specifying that any limitations or restrictions, which may be imposed as a condition of reinstating the Respondent's license, must relate to the misconduct proven in this matter and must serve the three purposes of discipline as outlined in *Aldrich*. The purpose of these additional requirements is to specify that future conditions imposed by the Board will be responsive to the violations, which the Division has proven in this matter.

The indefinite suspension of Respondent's license is necessary to ensure that Respondent is practicing safely and will cooperate with the Board that issued and regulates her license. She has committed violations involving impaired practice and possession and usage of marijuana, a hallucinogenic substance that is a Schedule I controlled substance. In addition, by repeatedly failing to cooperate with the Division's investigation, the Respondent put public safety at risk by preventing the Board from ensuring that she is not practicing while impaired by marijuana. To date, the Respondent maintains an active license to practice registered nursing in Wisconsin. An Order that suspends her license is thus necessary to ensure that she does not practice while impaired by illegal substances and that she cooperates with the Board.

The Order allows Respondent to petition the Board to stay the suspension once Respondent cooperates with the Division by providing information requested in relation to this matter. The Order also allows the Board to institute additional limitations or restrictions on Respondent's license, following Respondent's cooperation with the Division.² Depending on the information provided by Respondent to the Division, such limitations and/or restrictions may be less severe than a suspension and allow Respondent to return to practice as a licensed practical nurse.

Suspending Respondent's license indefinitely under these conditions protects the public from other potential instances of misconduct. "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 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 a nurse who fails to cooperate with a lawful investigation into her conduct is competent to practice nursing. Substantial discipline is necessary to deter Respondent and other licensees from engaging in similar conduct in the future.

Respondent, while under investigation in DSPS Case No. 20 NUR 097 for her conviction of possession of THC, continued to engage in drug-related behavior, as evidenced by her admitted marijuana use in DSPS Case No. 20 NUR 554. This misconduct culminated in her self-described "spiritual" experience which endangered patients under her care. It is clear that these disciplinary cases have not deterred the Respondent from continuing down a path that presents clear and substantial danger to the public. Although promoting rehabilitation is one of the purposes of discipline, the Respondent's rehabilitation cannot be presumed until a thorough evaluation of her

² Such limitations and/or restrictions may include, among other things, a fitness for duty evaluation, a monitoring program, workplace restrictions, and AODA treatment.

fitness to continue to practice nursing is conducted and she is able to show compliance with a strict drug monitoring program. The only course of action certain to protect the public is to suspend the Respondent's license to practice nursing in Wisconsin until her ability to practice safely can be established.

The recommended discipline is in line with Board precedent. *See In the Matter of Disciplinary Proceedings Against Shauna L. Dettinger, R.N.*, Order Number LS0805014NUR (May 1, 2008) (License suspended indefinitely and required to participate in a 5-year monitoring program as nurse was convicted of possession of marijuana.)³; *See In the Matter of Disciplinary Proceedings Against Mallory L. Kruse, R.N.*, Order Number 0007547 (August 12, 2021) (License suspended indefinitely and required to participate in a 5-year monitoring program after admitting to drug use that would be found in a drug test.)⁴; and *See In the Matter of Disciplinary Proceedings Against Sarah M. Reimer, R.N.*, Order Number 0007163 (January 14, 2011) (License suspended indefinitely and required to participate in a 5-year monitoring program after working while impaired.)⁵

Based upon the facts of this case and the factors set forth in *Aldrich*, an indefinite suspension of Respondent's license, pursuant to the terms and conditions of the Order 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. *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.

In this case, the Respondent should be required to pay the full costs of the investigation and prosecution of these proceedings. She failed to cooperate with the Division's investigations and has not participated in these proceedings. Because the Respondent is in default and has provided no Answer to the Division's Complaint, the Division's allegations are deemed admitted. In addition, the Respondent's misconduct continued and escalated in severity while she was under disciplinary investigation. The recommended indefinite suspension is a high level of discipline in

³ <https://online.drl.wi.gov/decisions/2008/ls0805014nur-00076495.pdf>

⁴ <https://online.drl.wi.gov/decisions/2021/ORDER0007547-00018039.pdf>

⁵ <https://online.drl.wi.gov/decisions/2021/ORDER0007163-00017337.pdf>

response to the seriousness of the Respondent's violations. Finally, 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 proceeding on those licensees who have not engaged in misconduct.

Therefore, it is appropriate for Respondent to pay the full costs of the investigation and prosecution in this matter, as determined pursuant to Wis. Admin. Code § SPS 2.18.

ORDER

For the reasons set forth above, IT IS ORDERED:

1. Respondent's license to practice as a practical nurse in Wisconsin (license no. 323200-21), and Respondent's right to renew her license, are **SUSPENDED** for an indefinite period.
2. Respondent may petition the Board for a stay of suspension after contacting the Department Monitor and providing any information requested by the Board or its designee in relation to this matter.
3. The Board or its designee may stay the suspension upon determination that Respondent has cooperated with the Division concerning this matter, by providing any information requested by the Division in relation to this matter.
4. If the Board grants Respondent's petition for a stay of suspension, the Board or its designee may impose any conditions and/or limitations on Respondent's license deemed appropriate in order to protect the health, safety, and welfare of patients and the public. Any such conditions or restrictions must relate to the misconduct proven in this matter and must serve one of the following purposes: promoting the Respondent's rehabilitation, protecting the public from other instances of misconduct, or deterring other credential holders from engaging in similar conduct.
5. Should Respondent have a Wisconsin multistate license pursuant to the Enhanced Nurse Licensure Compact (Compact), Respondent may not practice in any Compact state, other than Wisconsin, while Respondent's license is encumbered by any term(s) of this Order or subsequent orders.
6. Respondent shall pay all recoverable costs in these matters in an amount to be established pursuant to Wis. Admin. Code. § SPS 2.18.
7. Petitions, payment of costs (made payable to the Department of Safety and Professional Services), and any other questions or submissions related to this Order, may be directed to the Department Monitor at:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit payment online at: <http://dpsmonitoring.wi.gov>.

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

Dated at Milwaukee, Wisconsin, on February 11, 2022.

STATE OF WISCONSIN
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By: Andrea Brauer
Andrea Brauer
Administrative Law Judge