

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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

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In the Matter of the Disciplinary Proceedings  
Against Angela N. Yant, L.P.N., Respondent.

FINAL DECISION AND ORDER

Order No. **ORDER 0007913**

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**Division of Legal Services and Compliance Case No. 21 NUR 192**

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 14th day of April, 2022.

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

Member  
Board of Nursing



Before The  
State Of Wisconsin  
DIVISION OF HEARINGS AND APPEALS

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In the Matter of Disciplinary Proceedings  
Against Angela N. Yant, L.P.N., Respondent

DHA Case No. SPS-21-0091  
DLSC Case No. 21 NUR 192

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**PROPOSED DECISION AND ORDER**

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

Angela N. Yant, L.P.N.

Beloit, WI 53511

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

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

Attorney Nicholas Dalla Santa  
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, 2021, 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 Respondent Angela N. Yant, L.P.N., by mailing copies to her address on file with the Department via both certified and regular mail, pursuant to Wis. Admin. Code § SPS 2.08 and Wis. Stat. § 440.11(2). The Respondent failed to file an Answer to the Complaint as required. Wis. Admin. Code § 2.09(4).

Following expiration of the 20-day time period to file an Answer, the undersigned administrative law judge (ALJ) scheduled a telephone prehearing conference for January 20, 2022, at 11:00 a.m. The Respondent did not appear.

On January 20, 2021, the Division moved for default based on the Respondent's failure to file an Answer to the Complaint and failure to appear at the prehearing conference, pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c).

On January 24, 2022, the ALJ issued a Notice of Default and Order against the Respondent and ordered the Division to file a recommended Proposed Decision and Order by February 25, 2022. The Division timely filed its submission.

### FINDINGS OF FACT

#### Facts Related to the Alleged Violations

Findings of Facts 1-9 are taken from the Division's Complaint against Respondent filed in this matter.

1. The Respondent Angela N. Yant, L.P.N. (DOB: December 1, 1984) is licensed in the state of Wisconsin to practice as a licensed practical nurse, having license number 320066-31, first issued on December 14, 2015. This license expired on April 30, 2017, and has not been renewed. Pursuant to Wis. Stat. § 440.08(3) and Wis. Admin. Code § N 2.40, Respondent retains the right to apply for renewal upon payment of a fee until April 29, 2022.

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

3. At all times relevant to these proceedings, Respondent worked as a nurse at a health care center in Eaton, Ohio (Facility).

4. On May 15, 2018, Respondent exhibited signs of impairment while working at the Facility, including dozing and sleeping during her shift.

5. Respondent submitted a urine specimen, which tested positive for the presence of opiates.

6. On July 23, 2018, during an interview with the Ohio Board of Nursing, Respondent stated that, prior to the drug test, she had ingested a pill provided to her from a friend that contained morphine.

7. On May 23, 2019, Respondent's Ohio license to practice nursing was suspended indefinitely based on the positive drug test.

8. On September 15, 2021, the Department sent an e-mail requesting information related to its investigation in this case to Respondent's e-mail address on file with the Department. Respondent did not respond.

9. On October 8, 2021, the Department mailed a letter requesting information related to its investigation in this case to Respondent's address on file with the Department. The letter was returned as undeliverable on November 3, 2021.

Facts Related to Default

10. On December 9, 2021, the Division served the Notice of Hearing and Complaint on Respondent at her address of record with the Department by both certified and regular mail.

11. Respondent did not file an Answer to the Complaint.

12. Following expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for January 20, 2022, at 11:00 a.m. Notice of this prehearing conference was sent to both parties, with instructions that Respondent contact the ALJ with a telephone number at which Respondent could be reached for the conference no later than January 19, 2022. Respondent did not contact the ALJ. At the prehearing conference held on January 20, 2022, the ALJ attempted to reach Respondent at her telephone number on file with the Division. Respondent did not answer the telephone. The ALJ left the line open until 10:20 a.m., consistent with Wis. Admin. Code § HA 1.07(3)(c). The Respondent did not return the ALJ's phone call and has not otherwise contacted the ALJ.

13. The Division moved for default based on Respondent's failure to answer the Complaint and Respondent's failure to appear for the prehearing conference pursuant to Wis. Admin. Code §§ SPS 2.14 and HA 1.07(3)(c).

14. On January 24, 2022, the ALJ issued a Notice of Default against the Respondent and ordered the Division to file and serve a recommended Proposed Decision and Order no later than February 25, 2022.

15. The Division timely filed its recommended Proposed Decision and Order.

DISCUSSION AND CONCLUSIONS OF LAW

Jurisdictional Authority

The Wisconsin Board of Nursing (Board) has jurisdiction over this matter pursuant to Wis. Stat. § 441.07(1c) and (1g). 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." Wis. Stat. § 440.03(1). These rules are codified in Wis. Admin. Code ch. SPS 2.

The Division of Hearings and Appeals has authority to issue the proposed decision and order pursuant to Wis. Stat. § 227.43(1m) and Wis. Admin. Code § SPS 2.10(2).

### Default

The Division properly served the Notice of Hearing and Complaint upon Respondent by mailing a copy to her address of record with the Department. Service by mail is complete upon mailing. Wis. Admin. Code § 2.08(1) and Wis. Stat. § 440.11(2). The Division of Hearings and Appeals also properly served the Respondent with the Notice of Prehearing Conference by mailing it to her address of record with the Department. Wis. Admin. Code § HA 1.03.

An Answer to a Complaint shall be filed within 20 days from the date of service of the Complaint. Wis. Admin. Code § 2.09(4). 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 § 2.14.

For a telephone prehearing conference, the ALJ may find a failure to appear grounds for default if any of the following conditions exist for more than 10 minutes after the scheduled time for prehearing conference: (1) the failure to provide a telephone number to the ALJ after it had been requested; (2) the failure to answer the telephone; (3) the failure to free the line for the proceeding; and (4) the failure to be ready to proceed with the prehearing conference as scheduled. Wis. Admin. Code § HA 1.07(3)(c).

Here, Respondent failed to file an answer to the Complaint, failed to appear at the prehearing conference on January 20, 2022, failed to provide a telephone number to the ALJ after it had been requested, failed to answer the telephone when the ALJ called, and failed to be ready to proceed with the prehearing conference as scheduled. Therefore, the Respondent is in default and findings and an order may be entered based on the Complaint.

### Respondent’s Expired License Status

Although Respondent’s license expired on April 30, 2017, the Board retains authority in this matter because Respondent has a right to renew her license at any time. Until April 29, 2022, she may apply for renewal by completing the nursing workforce survey and paying the following fees: a renewal fee, a late fee, and a nursing workforce survey fee. Wis. Stat. § 440.08(3) and Wis. Admin. Code § N 2.40(2). After that time, to qualify for renewal, she must also either complete a nursing refresher course or provide documentation of employment requiring a nursing license within the prior five years. Wis. Admin. Code § N 2.40(3). In addition, pursuant to Wis. Admin. Code § N 2.41, if a license is expired for more than five years and the licensee has unmet disciplinary requirements, the license may not be reinstated unless the licensee shows evidence of completion of the disciplinary requirements and evidence of rehabilitation or change in circumstances warranting reinstatement.

### Violations

The Board has the authority to impose discipline against the Respondent pursuant to Wis. Stat. § 441.07. Following an investigation, if the Board determines that a nurse has committed “[o]ne or more violations of this subchapter or any rule adopted by the board under the authority

of this subchapter,” or has committed “[m]isconduct or unprofessional conduct,” it may “revoke, limit, suspend or deny a renewal of a license of a registered nurse. . . .” Wis. Stat. § 441.07(1g)(b) and (d).

Conduct that is grounds for the Board to take disciplinary action includes:

- a. Having a license to practice nursing or a nurse licensure compact privilege to practice denied, revoked, suspended, limited, or having the credential holder otherwise disciplined in another state, territory, or country. Wis. Admin. Code § N 7.03(1)(b).
- b. After a request of the Board, failing to cooperate in a timely manner with the Board’s investigation of a complaint filed against a license holder. Wis. Admin. Code § N 7.03(1)(c).
- c. Practicing nursing while under the influence of alcohol, illicit drugs, or while impaired by the use of legitimately prescribed pharmacological agents or medications. Wis. Admin. Code § N 7.03(6)(e).
- d. Obtaining, possessing, or attempting to obtain or possess a drug without lawful authority. Wis. Admin. Code § N 7.03(8)(e).

Respondent engaged in conduct, which constitutes grounds for disciplinary action under Wis. Admin. Code § N 7.03(1)(b), by having her license to practice nursing or a nurse licensure compact privilege to practice suspended in another state. On May 23, 2019, the Ohio Board of Nursing (Ohio Board) suspended Respondent’s nursing license because Respondent exhibited signs of impairment while working as a nurse, tested positive for the presence of opiates, and admitted to ingesting a morphine pill.

Respondent engaged in conduct, which constitutes grounds for disciplinary action under Wis. Admin. Code § N 7.03(1)(c), by failing to cooperate in a timely manner with the Board’s investigation. Respondent failed to respond to any of the Division’s attempts to contact her during the Division’s investigation of this case. In addition, Respondent failed to appear and participate in these proceedings. Respondent’s actions, or lack thereof, demonstrate a repeated failure to cooperate in a timely manner with the Board’s investigation.

Respondent practiced nursing while under the influence of illicit drugs within the meaning of Wis. Admin. Code § N 7.03(6)(e). Respondent admitted to ingesting a pill containing morphine and tested positive for opiates while working as a nurse.

Respondent obtained and possessed a drug without lawful authority within the meaning of Wis. Admin. Code § N 7.03(8)(e). Respondent admitted to obtaining a morphine pill from a friend and ingesting it. Respondent provided no evidence that she had a prescription for morphine or that her friend had the legal authority to prescribe or deliver morphine.

By engaging in conduct qualifying as grounds for taking disciplinary action on her license, along with Respondent's failure to make any argument to the contrary, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d), and Wis. Admin. Code § N 7.03.

### Discipline

The Division recommends that Respondent's license to practice as a registered nurse in Wisconsin, and her right to apply for renewal of her license, be suspended indefinitely. The Respondent may petition the Board at any time for a stay of the suspension, and if the Board chooses to stay the suspension, it may also 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.

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 *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976). 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 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. *Id.*

While Respondent's rehabilitation may be possible, this can only be determined if the Respondent cooperates with the Board. The Division's recommendation accounts for this by allowing the Respondent to petition the Board to stay the suspension once the Respondent provides information requested by the Department in relation to the matter.<sup>1</sup> Depending on the information provided, the Board may grant the petition to stay the suspension and impose conditions on the Respondent's license that promote rehabilitation, such as participating in alcohol and other drug abuse (AODA) treatment and/or a drug and alcohol monitoring program.

The recommended discipline also 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, 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 Ohio

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<sup>1</sup> Department investigations involving drug impairment include, among other things, questions concerning a respondent's prior and current drug and alcohol use, if any AODA assessments have been completed, prior instances of impairment, and current employment status and job duties.



license was suspended after Respondent practiced nursing while impaired by drugs. She has since failed to communicate with the Department's multiple requests for information on behalf of the Board, making it impossible for the Board to ensure that Respondent is safely practicing nursing. As such, an indefinite suspension is appropriate to protect the public.

The recommended discipline deters other nurses licensed in Wisconsin from engaging in similar conduct. Licensees should be on notice that they cannot avoid disciplinary action by simply refusing to cooperate with the Board. Suspension of the Respondent's license, and her right to apply for renewal of that license, will serve to deter others from committing similar violations.

The recommended discipline is consistent with Board precedent. *See In the Matter of the Disciplinary Proceedings Against Linda L. Polanco, R.N.*, Order Number 0007563 (August 25, 2021) (Board suspended nurse's license indefinitely for failing to cooperate with the Board's investigation and proceedings and required completion of education in order to petition for license reinstatement);<sup>2</sup> *In the Matter of the Disciplinary Proceedings Against Amanda Nabbefeldt, R.N.*, Order Number 0007516 (August 12, 2021) (Board suspended nurse's license indefinitely for failing to cooperate with the Board's investigation and proceedings);<sup>3</sup> *In the Matter of the Disciplinary Proceedings against Philip M. Lemon, Sr., L.P.N.*, Order No. 0007411 (June 10, 2021) (Nurse was unable to practice safely due to alcohol or substance use, nurse failed to respond to Division requests for information, and nurse failed to appear for hearing proceedings; nurse's license and right to renew the license was revoked);<sup>4</sup> *In the Matter of the Disciplinary Proceedings Against Jessica A. Lunde, R.N.*, Order No. 0007216 (February 11, 2021) (Right to renew license was revoked after nurse's MN license was suspended, nurse did not disclose suspension on application for licensure in Wisconsin, and nurse failed to respond to requests for information).<sup>5</sup>

Based upon the facts of this case, the factors set forth in *Aldrich*, and prior Board decisions, 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

<sup>2</sup> *In the Matter of the Disciplinary Proceedings Against Linda L. Polanco, R.N.*, Order Number 0007563

<sup>3</sup> *In the Matter of the Disciplinary Proceedings Against Amanda Nabbefeldt, R.N.*, Order Number 0007516

<sup>4</sup> *In the Matter of the Disciplinary Proceedings Against Philip M. Lemon, Sr., L.P.N.*, Order No. 0007411

<sup>5</sup> *In the Matter of the Disciplinary Proceedings Against Jessica A. Lunde, R.N.*, Order No. 0007216

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* (LS0802183 CHI) (Aug. 14, 2008). It is within the Board's discretion as to which, if any, of these factors to consider, whether other factors should be considered, and how much weight to give any factors considered.

It is appropriate for Respondent to pay the full costs of the investigation and prosecution of these proceedings. Because Respondent defaulted and did not file an Answer, the factual allegations identified in the Division's Complaint were deemed admitted. The Respondent's misconduct includes drug impairment while working as a nurse. The misconduct also includes failure to cooperate with the Board's investigation, a violation that represents a clear disregard for the Board's authority. The level of discipline sought is an indefinite suspension, which is a proportionate and substantial level of discipline in response to the violations proven. Respondent's license to practice nursing has been suspended in another state due to impairment issues. Respondent failed to cooperate with the Division's investigation and this disciplinary process by failing to respond to the Division's requests for information, failing to answer the Complaint, and failing to appear for the prehearing conference. Respondent has not offered any acceptable justification for her actions. Such conduct demonstrates disregard for the authority of the Board and disregard for her duties as a nurse.

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 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 registered nurse in Wisconsin (license no. 320066-31), and Respondent's right to apply for renewal of her license, are SUSPENDED for an indefinite period.
2. Respondent may petition the Board for a STAY of the suspension by contacting the Department Monitor and providing any information requested by the Board or its designee in relation to this matter in a timely fashion.
3. The Board or its designee may stay the suspension upon determination that Respondent has cooperated fully with the Department and provided any information requested by the Board or Department in relation to this matter. The Board or its designee may impose conditions and/or limitations on Respondent's license that it deems appropriate 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.

4. Whether the Board or its designee grants Respondent's petition for a stay of suspension, and/or imposes any conditions and limitations on Respondent's license is within its sole discretion and is not subject to appeal.

5. Respondent shall pay recoverable costs in this matter in an amount to be established pursuant to Wis. Admin. Code § SPS 2.18.

6. 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](mailto:DSPSMonitoring@wisconsin.gov)

Respondent may also submit this information online at: <https://dspsmonitoring.wi.gov>.

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

Dated at Milwaukee, Wisconsin on March 16, 2022.

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By: *Andrea Brauer*  
Andrea E. Brauer  
Administrative Law Judge