

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov



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

In the Matter of the Disciplinary Proceedings
Against Nancy K. Reddick, R.N., Respondent.

FINAL DECISION AND ORDER

Order No. **ORDER 0008532**

Division of Legal Services and Compliance Case No. 22 NUR 182

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 11th day of May, 2023.

A handwritten signature in black ink, appearing to read "Robert Weber", 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
Nany K. Reddick, R.N., Respondent

DHA Case No. SPS-22-0071
DLSC Case No. 22 NUR 182

PROPOSED DECISION AND ORDER

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

Nancy K. Reddick, R.N.,

Wisconsin Board of Nursing, and

Department of Safety and Professional Services, Division of Legal Services and
Compliance, by Attorney Nicholas Dalla Santa

PROCEDURAL HISTORY

On November 17, 2022, the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed and served the Notice of Hearing and the Complaint on Nancy K. Reddick, R.N. (Respondent), by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08 and Wis. Stat. § 440.11(2). The Respondent failed to file an answer within 20 days from the date of service, as required by Wis. Admin. Code § SPS 2.09(4).

The Administrative Law Judge (ALJ) scheduled a telephone prehearing conference for January 20, 2023. Notice of this prehearing conference was sent to both parties. The Respondent did not appear.

On January 20, 2023, the Division 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).

On January 27, 2023, the ALJ issued a Notice of Default against the Respondent and ordered that the Division file a recommended proposed decision and order no later than February 27, 2023.

FINDINGS OF FACT

Facts Related to the Alleged Violations

Findings of Facts 1-8 are from the Division's Complaint against the Respondent filed in this matter.

1. The Respondent, Nancy K. Reddick, R.N. is not and has not ever been licensed as a nurse in the state of Wisconsin. The Respondent is licensed as a registered nurse in the state of Texas (license no. 741157), possessing multistate privileges via the Nurse Licensure Compact (Compact), first issued on May 29, 2007, and current through May 31, 2023. The Respondent is authorized to work in states that are members of the Compact, including Wisconsin.

2. At all times relevant to the proceedings, the Respondent worked as a registered nurse for a nurse staffing agency and was assigned to the emergency department of a hospital located in Summit, Wisconsin (Facility).

3. During the late morning of March 9, 2022, the Respondent consumed wine with a friend.

4. Later that day, the Respondent received a call from the charge nurse at the Facility requesting that the Respondent to work a night shift, 7:00 p.m. – 7:00 a.m. The Respondent confirmed she would work the shift.

5. Approximately one hour after the Respondent reported for work, the Respondent submitted to an alcohol breath test, which resulted in an alcohol level of 0.082%.

6. The Respondent's contract with the Facility was terminated.

Facts Related to Default

7. On November 17, 2022, the Division served the Notice of Hearing and the Complaint on the Respondent at her address on file with the Department by both certified and regular mail.

8. The Respondent failed to file an answer to the Complaint.

9. After the expiration of the 20-day period to file an answer, the ALJ scheduled a telephone prehearing conference for January 20, 2023. The ALJ sent notice of the conference by U.S. mail and email to the Respondent. The notice ordered the Respondent to contact the ALJ no later than January 19, 2023, to provide her current telephone number. The notice also stated that if the Respondent failed to appear at the scheduled conference, default judgment may be entered against her.

10. The Respondent failed to contact the ALJ by January 19, 2023, with her current telephone number.

11. The Respondent failed to appear at the prehearing conference on January 20, 2023. The ALJ was unable to reach the Respondent for the conference. The Respondent did not have a working phone number on file with the Division. The ALJ emailed the Respondent at the email address on file with the Division and the line was held open for 15 minutes. The Respondent did not respond to the email or otherwise contact the ALJ.

12. On January 20, 2023, the Division moved for default based on the Respondent's failure to answer the Complaint and failure to appear at the prehearing conference, pursuant to Wis. Admin. Code §§ SPS 2.14 and HA 1.07(3)(c).

13. On January 27, 2023, the ALJ granted the Department's motion and issued a Notice of Default against the Respondent. The ALJ ordered the Division file a recommended proposed decision and order no later than February 27, 2023. The Division timely filed its recommended proposed decision and order.

DISCUSSION

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 Chapter SPS 2 of the Wisconsin Administrative Code.

Wisconsin has adopted the Compact and is a party state for the purposes of this matter under Wis. Stat. § 451.51(2)(k).

The Board has jurisdiction over the Respondent's multistate privilege to practice nursing in Wisconsin and authority to take adverse action against her multistate privilege pursuant to Wis. Stat. §§ 441.51(3)(d), (e), and (5)(a)1. Adverse action against the Respondent's multistate privilege to practice in Wisconsin includes revocation, suspension, probation, or any other action that affects a nurse's authorization to practice under a multistate privilege. Wis. Stat. § 441.51(3)(d).

The Division of Hearings and Appeals has authority to issue the proposed decision and order pursuant to Wis. Stat. §§ 227.43(1m) and 441.51(3)(e), and Wis. Admin. Code § SPS 2.10(2).

Default

The Division properly served the Notice and Complaint upon the Respondent by mailing a copy to her last known address. Wis. Stat. § 440.11(2). Service by mail is complete upon mailing. Wis. Admin. Code § SPS 2.08(1). Notice of the prehearing conference was also properly served by mail. *See* 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 § SPS 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 ten 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, the Respondent failed to file an answer to the Complaint, failed to appear at the prehearing telephone conference on January 20, 2023, failed to provide a telephone number to the ALJ after it had been requested, 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.

Violations

The Board has the authority to impose discipline against the Respondent pursuant to Wis. Stat. §§ 441.07 and 441.51(3)(d) and (e). Following an investigation, if the Board determines that a nurse has committed “[o]ne or more violations 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 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). The Respondent engaged in conduct qualifying as grounds for disciplinary action pursuant to Wis. Admin. Code § N 7.03(6)(e) when she consumed alcohol prior to reporting to work for a 7 p.m. shift. An hour into that shift, the Respondent submitted to an alcohol breath test which returned positive with a breath alcohol level of 0.082%.

The Respondent committed conduct qualifying as grounds for disciplinary action, so she is subject to adverse action against her multistate privilege to practice nursing in Wisconsin. Wis. Stat. §§ 441.51(3)(d) and (e), and 441.51(5)(a)(1).

Discipline

The Division recommends that the Respondent’s multistate privilege to practice nursing in Wisconsin be suspended indefinitely with the provision that the Respondent may petition the Board at any time to stay the suspension. 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, provided they are related to the misconduct proven in this matter and serve the three purposes of discipline outlined in *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976). Because the Respondent has been found in default, and because the recommended discipline is consistent with the purposes in *Aldrich*, I adopt the Division's recommendation.

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 misconduct. *Id.*

The recommended discipline is consistent with the purposes in *Aldrich*. The allegations in the Complaint are serious; the Respondent practiced nursing while under the influence of alcohol. The Division's recommended discipline protects the public from other potential instances of misconduct by ensuring that the Respondent cannot practice nursing in Wisconsin until the Board is assured that she can do so competently and safely. "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). The Respondent practiced while under the influence of alcohol and subsequently failed to participate in disciplinary proceedings. Therefore, it has not been possible to ensure that the Respondent is safely practicing nursing. As such, indefinite suspension is appropriate to protect the public.

While the Respondent's rehabilitation¹ may be possible in the future, the Respondent has not provided sufficient information to make a specific determination at this time. Because the Respondent failed to participate in these proceedings, the Board cannot determine what rehabilitative measures would be effective at this time, and the failure to participate demonstrates a lack of respect for Board authority. An Order that suspends the Respondent's multistate privilege to practice in Wisconsin is necessary to ensure that the Respondent is practicing safely, and that the Respondent cooperates with the Board that regulates nursing in the state she practices in.

The recommended discipline also deters other credential holders from engaging in similar conduct. Licensees must be on notice that they cannot avoid disciplinary action by simply refusing to cooperate with the Board. Licensees must cooperate so that the Board can determine the appropriate outcome to rehabilitate the licensee while protecting the health, safety, and welfare of the public. Suspension of the Respondent's multistate privilege to practice nursing in Wisconsin will serve to deter others from committing similar violations.

¹ In this case, "rehabilitation" includes ensuring Respondent does not practice while impaired and no longer ignores the Board's authority.

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 Respondent'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);² *In the Matter of the Disciplinary Proceedings Against Amanda Nabbefeldt, R.N.*, Order Number 0007516 (August 12, 2021) (Board suspended Respondent's license indefinitely for failing to cooperate with the Board's investigation and proceedings);³ *In the Matter of the Disciplinary Proceedings Against Nancy M. Mokaya, R.N.*, Order Number 0008013 (June 9, 2022) (Board suspended Respondent's license indefinitely for failing to cooperate with the Board's investigation and proceedings and Board granted ability to impose conditions and/or limitations on the license upon stay of suspension);⁴ *In the Matter of Disciplinary Proceedings Against Clifton Davison, R.N.*, Order Number 0008161 (September 8, 2022) (Board indefinitely suspended Respondent's multistate privilege to practice in Wisconsin after failing to cooperate with the Board's investigation and proceedings);⁵ *In the Matter of Disciplinary Proceedings Against Angela Hamilton, L.P.N.*, Order Number 0008012 (June 9, 2022) (Board suspended Respondent's multistate privilege to practice after failing to cooperate in the Board's disciplinary proceedings).⁶

Based upon the facts of this case, the factors set forth in *Aldrich*, and prior Board decisions, an indefinite suspension of the Respondent's multistate privilege to practice in Wisconsin pursuant to the Compact is reasonable and warranted.

Costs

The Board is vested with discretion concerning whether to assess all or part of the costs of this proceeding against the 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 a 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* (LS0802183 CHI) (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.

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

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

⁴ *In the Matter of Disciplinary Proceedings Against Nancy M. Mokaya, R.N.*, Order Number 0008013.

⁵ *In the Matter of Disciplinary Proceedings Against Clifton Davison, R.N.*, Order Number 0008161 (July 21, 2022).

⁶ *In the Matter of Disciplinary Proceedings Against Angela Hamilton, L.P.N.*, Order Number 0008012 (June 9, 2022).

Considering the above factors, it is appropriate for the Respondent to pay the full costs of the investigation and of these proceedings. The Respondent defaulted and the factual allegations identified in the Division's Complaint were deemed admitted. The Respondent's misconduct includes practicing nursing while under the influence of alcohol and failing to cooperate with the Board's investigation, which demonstrate a clear disregard for the Board's authority. The level of discipline sought is an indefinite suspension with the Respondent's ability to petition the Board to terminate the suspension, a substantial level of discipline responsive to the violations in this matter. The 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. The Respondent has not offered any acceptable justification for her actions. Such conduct demonstrates disregard for the authority of the Board and disregard for the laws applicable to nurses to practice in Wisconsin.

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

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to Wis. Stat. §§ 441.07 and 441.51.
2. The Respondent is in default by failing to answer the Complaint and not being available for the prehearing pursuant to Wis. Admin. Code § HA 1.07(3)(c).
3. The Respondent engaged in conduct that constitutes grounds for disciplinary action under Wis. Admin. Code § N 7.03(6)(e) by practicing nursing while under the influence of alcohol, illicit drugs, or while impaired by the use of legitimately prescribed pharmacological agents or medications.
4. As a result of the above conduct, the Respondent is subject to discipline pursuant to Wis. Stat. §§ 441.07(1g)(b), (c) and (d), 441.51(3)(e), and Wis. Admin. Code § N 7.03.
5. Suspension of the Respondent's multistate privilege to practice in Wisconsin is reasonable and appropriate.
6. It is appropriate for the Respondent to pay the full costs of the investigation and prosecution in this matter pursuant to Wis. Admin. Code § SPS 2.18.
7. The Division of Hearings and Appeals has authority to issue the proposed decision pursuant to Wis. Stat. § 227.46 and Wis. Admin. Code § SPS 2.18.

ORDER

For the reasons set forth above, IT IS ORDERED:

1. The Respondent's multistate privilege to practice nursing in Wisconsin pursuant to licensure in Texas (license no. 741157), or licensure in any other Compact state, is **SUSPENDED** for an indefinite period.

2. The 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 the 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 the Respondent's multistate privilege to practice in Wisconsin that it deems appropriate to protect the health, safety, and welfare of patients and the public. Any 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 the Respondent's petition for a stay of suspension, and/or imposes any conditions and limitations on the Respondent's multistate privilege to practice in Wisconsin is within its sole discretion and is not subject to appeal.

5. In the event the Respondent violates any term of this Order while a stay of suspension is in place, the Board or its designee may remove the stay, without further notice of hearing, until the Respondent has complied with the terms 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 2.

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

7. Petitions, payments of costs (made payable to Department of Safety and Professional Services), and any other requests for information or submissions related to this Order shall be submitted to the Department Monitor at:

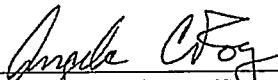
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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

8. 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 Madison, Wisconsin on April 5, 2023.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
4822 Madison Yards Way, 5th Floor North
Madison, Wisconsin 53705
Tel.: (414) 227-4025
Fax: (608) 264-9885
Email: Angela.ChaputFoy@wisconsin.gov

By: 

Angela Chaput Foy
Administrative Law Judge