

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF
THE APPLICATION FOR A LICENSE OF
ROBERT E. PETERS, LPN

Applicant

ORDER ADOPTING STIPULATION

On August 5, 1999, Robert E. Peters (Mr. Peters) filed his application for a license to practice as a practical nurse in the State of Wisconsin. Because Mr. Peters indicated on his application that he has a history of DWI arrests, he was asked to appear before the board for oral interview. Mr. Peters appeared before the board at its meeting of November 5, 1999, and the board considered the application on that date. The board and Mr. Peters thereafter entered into a Stipulation, by which the board agreed to grant and Mr. Peters agreed to accept, a limited license to practice practical nursing in the State of Wisconsin. Based upon that Stipulation, the board orders as follows;

ORDER

NOW, THEREFORE, IT IS ORDERED that Robert E. Peters, applicant herein, is hereby granted a license to practice as a practical nurse in Wisconsin imposing the following terms and conditions:

GENERAL CONDITIONS

1. The term of the license shall be for three months. Applicant may petition for renewal of the limited license for additional periods of three months conditioned upon acceptable demonstration of compliance with the following terms and conditions during the prior three month period:
2. If the Board denies a petition by applicant for an extension, the board shall afford applicant an opportunity for hearing in accordance with the procedures set forth in Wis. Adm. Code Ch. RL 1 upon timely receipt of a request for hearing.
3. Upon a showing by respondent of complete, successful and continuous compliance for a period of five years with the terms of limitation outlined below, applicant may petition for return of full licensure. The board may, in its discretion, require that applicant complete at least six months of nursing employment monitored under the conditions outlined below prior to the board's issuance of a complete and unrestricted license.

REHABILITATION, MONITORING AND TREATMENT

Treatment Required

4. Applicant shall maintain successful participation in all components of a program for the treatment of chemical dependency at a treatment facility acceptable to the board. As a part of treatment, applicant must obtain therapy on a schedule as recommended by his supervising health care provider. Attendance shall, however, be required at least four times per month. In addition, applicant must attend Alcoholics Anonymous, Narcotics Anonymous or another self-help group acceptable to the board at least three times per week.

Sobriety

5. Applicant shall remain free of alcohol and prescription drugs and controlled substances not prescribed for valid medical purposes during the period of limitation.

6. Applicant shall in addition refrain from the consumption of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, or which may create false positive screening results, or which may interfere with applicant's treatment and rehabilitation. Applicant shall report all medications and drugs, over-the-counter or prescription, taken by him to his supervising health care provider within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs for him. Within 24 hours of a request by his supervising health care provider or the Board of Nursing or its designee, applicant shall provide releases which comply with state and federal laws authorizing release of his health care records by the person who prescribed, dispensed, administered or ordered this medication for him. These releases shall also authorize the supervising health care provider, the Board of Nursing or its designee to discuss applicant's health care with the person who prescribed, dispensed, administered or ordered this medication. The terms of this paragraph shall not be deemed to modify or negate applicant's obligation to maintain sobriety as set forth in this Order/Stipulation.

Department Monitor

7. The department monitor is the individual designated by the board as its agent to coordinate compliance with the terms of this Order, including: receiving and coordinating all reports and petitions; and requesting additional monitoring and surveillance. The department monitor may be reached as follows:

Department Monitor

Department of Regulation Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

FAX (608) 266-2264

TEL. (608) 267-7139

Releases

8. Applicant shall provide and keep on file with all treatment facilities and personnel, laboratories and collections sites current releases which comply with state and federal laws authorizing release of all of his urine, blood and hair specimen screen results and his medical and treatment records and reports to, and permitting his or her supervising health care provider and his treating physicians and therapists to disclose and discuss the progress of his treatment and rehabilitation with the Board of Nursing or any member thereof, or with any employee of the Department of Regulation and Licensing acting under the authority of the Board of Nursing. Copies of these releases shall be filed simultaneously with the department monitor.

Drug and Alcohol Screens

9. Applicant must participate in a program of random witnessed monitoring for controlled substances and alcohol in his urine, blood and/or hair on a frequency of at least four screens per month. If the board, the physician or therapist supervising his or her plan of care, or his employer deems that blood or urine screens are warranted in addition to the base frequency established by this paragraph, applicant shall submit to such additional screens.

10. Applicant shall be responsible for obtaining a monitoring facility and reporting system acceptable to the board, as well as the costs incurred in conjunction with the monitoring and reporting required and any other expenses associated with compliance with the board's Order.

11. Applicant shall keep the supervising health care provider and monitoring facility informed of applicant's location and shall be available for contact by his supervising health care provider at all times.

12. To be acceptable, specimen requests shall be random with respect to the hour of the day and the day of the week. In addition, the Board of Nursing or its designee may at any time request a random monitored urine, blood or hair specimen from applicant by directing the department monitor in the Department of Regulation and Licensing, Division of Enforcement to contact applicant and request that applicant provide a specimen.

13. All requested urine, blood or hair specimens shall be provided by applicant within five (5) hours of the request for the specimen. All urine specimen collections shall be a split sample accomplished by dividing urine from a single

void into two specimen bottles. The total volume of the split sample shall be at least 45 ml. of urine. All split sample urine specimens, blood specimens and hair specimens shall be collected, monitored and chain of custody maintained in conformity with the collection, monitoring and chain of custody procedures set forth in 49 CFR Part 40. Urine specimen collections shall be by direct observation if:

(a) The applicant must provide an additional specimen because applicant's initial specimen was outside of the normal temperature range (32.5 - 37.7°C / 90.5 - 99.8°F) and he refuses to have an oral body temperature measurement or he does provide an oral body temperature measurement and the reading varies by more than 1°C / 1.8°F from the temperature of the urine specimen.

(b) Applicant's last provided specimen was determined by the laboratory to have a specific gravity of less than 1.003 and creatinine concentration below 0.2 g / l.

(c) The collection site person observes applicant acting in such a manner to provide reason to believe that applicant may have attempted or may attempt to substitute or adulterate the specimen. The collection site person, if he or she believes that the initial urine specimen may have been adulterated or a substitution made, shall direct applicant to provide an additional observed urine specimen.

(d) The last provided specimen resulted in a positive or suspected positive test result for the presence of controlled substances;

(e) The Board of Nursing or any member thereof or the Department Monitor, or applicant's Supervising Health Care Provider directs that the urine specimen collection be by direct observation.

If either of the above conditions (a) or (c) requires collection of an additional observed urine specimen, the collection of the subsequent specimen shall be accomplished within the required five (5) hours of the request for the initial specimen; the collection of the initial specimen shall not satisfy the requirement that the urine specimen be collected within five (5) hours of the request for the initial specimen.

14. The drug and alcohol treatment program in which applicant is enrolled shall at all times utilize a United States Department of Health and Human Services certified laboratory for the analysis of all specimens collected from applicant.

15. The drug and alcohol treatment program in which applicant is enrolled shall utilize only those urine, blood and hair specimen collection sites for collection of applicant's urine, blood or hair specimens as comply with the United States Department of Transportation collection and chain of custody procedures set forth in 49 CFR Part 40.

16. The supervising health care provider, treatment facility, laboratory and collection site shall maintain a complete and fully documented chain of custody for each urine, blood or hair specimen collected from applicant.

17. Every urine specimen collected from applicant shall be analyzed at the time of collection for tampering by measurement of the temperature of the specimen and the oral temperature of applicant. Every urine specimen collected from applicant shall be further analyzed at the laboratory for tampering by measuring the creatinine concentration and the specific gravity of the specimen. The laboratory may at its discretion or at the direction of a supervising health care provider or the Board of Nursing or any member thereof conduct additional tests to evaluate the urine specimen for tampering including, but not limited to, pH, color and odor.

18. Every urine, blood or hair specimen collected from applicant shall be analyzed for alcohol, amphetamine, cocaine, opiates, phencyclidine, marijuana, methadone, propoxyphene, methaqualone, barbiturates, benzodiazepines or the metabolites thereof. The Board of Nursing or its designated agent may at any time direct that screens for additional substances and their metabolites be conducted by scientific methods and instruments appropriate to detect the presence of these substances. The laboratory shall conduct confirmatory tests of positive or suspected positive test results by appropriate scientific methods and instruments including, but not limited to, gas chromatography and mass spectrometry.

19. All urine, blood or hair specimens remaining after testing shall be maintained in a manner necessary to preserve the integrity of the specimens for at least seven (7) days; and all positive or suspected positive urine, blood or hair specimens remaining after testing shall be so maintained for a period of at least one (1) year. The supervising health care provider or the Medical Examining Board or any member thereof may direct that the urine, blood or hair specimens be maintained for a longer period of time.

20. For the purpose of further actions affecting applicant's license under the board's Order adopting this Stipulation, it shall be presumed that all confirmed positive reports are valid. Applicant shall have the burden of proof to establish that the positive report was erroneous and that the applicant's specimen sample did not contain alcohol or controlled substances or their metabolites.

21. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol,

applicant shall promptly submit to additional tests or examinations as the supervising health care provider shall determine to be appropriate to clarify or confirm the positive or suspected positive urine, blood or hair specimen test results.

Required Reporting

22. The supervising health care provider and monitoring facility shall report immediately to the department monitor in the Department of Regulation and Licensing, Division of Enforcement by FAX or telephonic communication: any failure of applicant to provide a urine, blood or hair specimen within five (5) hours from the time it was requested; or of any inability to locate applicant to request a specimen. The laboratory shall immediately report all urine specimens suspected to have been tampered with and all urine, blood or hair specimens which are positive or suspected positive for controlled substances or alcohol to the department monitor, and to the supervising health care provider.

23. The laboratory shall within 48 hours of completion of each drug or alcohol analysis mail the report from **all** specimens requested of applicant under the board's Order to the department monitor (regardless of whether the laboratory analysis of the specimen was positive or negative for controlled substances, their metabolites or alcohol). Each report shall state the date and time the specimen was requested; the date and time the specimen was collected; the results of the tests performed to detect tampering; and the results of the laboratory analysis for the presence of controlled substances and alcohol.

24. The supervising health care provider shall submit formal written reports to the department monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the department monitor. These reports shall assess applicant's progress in his drug and alcohol treatment program and summarize the results of the urine, blood or hair specimen analyses. The supervising health care provider shall report immediately to the department monitor [Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935, FAX (608) 266-2264, telephone no. (608) 267-7139] any violation or suspected violation of the board's Order.

Reporting by Applicant

25. Applicant shall be responsible for compliance with all of the terms and conditions of the board's Order. It is the responsibility of applicant to promptly notify the department monitor, of any suspected violations of any of the terms and conditions of this Order, including any failures of the supervising health care provider, treatment facility, laboratory or collection sites to conform to the terms and conditions of this Order.

Facility approval

26. If the Board of Nursing determines that the supervising health care provider, treatment facility, laboratory or collection sites have failed to satisfy the terms and conditions of the board's Order, the board may, at its sole discretion, direct that applicant continue his treatment and rehabilitation program under the direction of another supervising health care provider, treatment facility, laboratory or collection site which will conform to the terms and conditions of this Order.

SCOPE OF PRACTICE: LIMITATIONS AND CONDITIONS

Disclosure

27. Applicant shall provide any current or prospective nursing employers with a copy of the board's Order immediately upon issuance of a three month license under the Order, and upon any change of employment during the time in which a three month license is in effect. In addition, applicant shall provide his employer with a copy of any order granting a renewal of the license within five days of applicant's receipt of an order renewing the license. Applicant shall immediately provide his employer with a copy of any denial of renewal of the license under the board's Order.

Required Reporting

28. Applicant shall arrange for quarterly reports from his nursing employer(s) reporting the terms and conditions

of his employment and evaluating his work performance. These reports shall be submitted to the department monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, WI 53708, on a schedule as directed by the department monitor. An employer shall report immediately to the department monitor (FAX 608 266-2264, telephone 608 267-7139) any violation or suspected violation of the board's Order.

29. Applicant shall report to the board any change in employment status, change of residence address or phone number, within five days of any such change.

PETITIONS FOR MODIFICATION OF TERMS

30. Applicant may petition the board in conjunction with any application for a renewal of the license to revise or eliminate any of the above conditions. Denial of the petition in whole or in part shall not be considered a denial of a license and shall not give rise to a contested case within the meaning of Sec. 227.01(3)(a) and 227.42, Stats.

SUMMARY SUSPENSION

Violation of any of the terms of the board's Order shall be construed as conduct imperiling public health, safety and welfare and may result in summary suspension of applicant's license. The board in its discretion may in the alternative deny a renewal of the limited license or impose additional conditions and limitations and additional discipline for violation of any of the terms and conditions.

EFFECTIVE DATE OF ORDER

The effective date of this board's Order shall be the date hereof.

Dated this 10th day of March, 2000.

STATE OF WISCONSIN

BOARD OF NURSING

by _____

Ann Brewer, R.N.

Chair