

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing 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 Regulation and Licensing 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 Regulation and Licensing 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 Regulation and Licensing, 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 Regulation and Licensing 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/wscqa>.
- 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 DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

---

IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**  
: :  
KIMBERLY I. RODERS, L.P.N., : LS08090410NUR  
RESPONDENT. :

---

Division of Enforcement Cases #08 NUR 14/129

The parties to this action for the purposes of Wis. Stat. § 227.53, are:

Kimberly I. Roders  
3527 18th Ave.  
Kenosha, WI 53140

Wisconsin Board of Nursing  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

**PROCEDURAL HISTORY**

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

**FINDINGS OF FACT**

1. Kimberly I. Roders (dob: 3/22/65) is and was at all times relevant to the facts set forth herein a practical nurse licensed in the State of Wisconsin pursuant to license #305658. This license was first granted 3/1/05.
2. On 1/3/08, and while employed as a practical nurse at the South Winds Community Based Residential Facility, Respondent absented herself from the facility without permission or notice.
3. When requested to explain the circumstances of this incident by a Board investigator, Respondent wrote: "At 6:30 P.M. on Thursday, January 3, 2008, I suggested to my CNA I was not feeling well. After making sure that my residents had been taken care of, I left the building at approximately 7:00 PM. I proceeded to go to the apartment building next door to meet with an acquaintance of mine."
4. In fact, Respondent was found unconscious in a snow bank near her place of employment, shortly thereafter, and was transported by ambulance to the hospital, where she was found to have cocaine, and alcohol (203 mg/dL, or 0.203% by weight), in her system. Respondent admitted to hospital staff that she had been drinking at or before working that day.
5. Respondent has the following history: on 1/28/06, at 9:30 PM, she was seen in the emergency department of Kenosha Memorial Hospital, where she had been transported from her workplace (Brookside Nursing Home); she was diagnosed with acute alcohol intoxication and had a serum alcohol of 255 mg/dL (0.255% by weight). On 3/15/06, at 1:00 AM, she was seen in the same emergency department, reporting that she had ingested cocaine, and then 4 clonazepam pills to counteract the cocaine. On 3/12/07, Respondent was arrested for operating a motor vehicle while influenced by an intoxicant, second offense; she was convicted of this offense on 11/28/07 in Kenosha County Circuit Court and sentenced to 60 days in

jail with work release, to pay a fine and assessments of \$973, to have her drivers license revoked for 14 months, and to undergo an AODA assessment. On 5/29/07, Respondent was arrested following a hit-and-run collision, for operating a motor vehicle while influenced by an intoxicant, third offense; she was convicted of this offense on 3/4/08, in Kenosha County Circuit Court and sentenced to 7 months in county jail, to pay a fine, costs, and assessments of \$2,348, to have her drivers license revoked for 30 months and to have an interlock device installed in her motor vehicle for 30 months.

6. Following an evaluation at Aro Behavioral Healthcare, Kenosha, Respondent was diagnosed with substance dependence. Respondent has participated in treatment for her condition at Aro Behavioral Healthcare, and her therapist has provided the Board with his opinion that Respondent is presently not a danger or risk to any nursing patient.

7. Respondent is presently practicing nursing at the Golden Living Center, Kenosha, Wisconsin.

### **CONCLUSIONS OF LAW**

A. The Wisconsin Board of Nursing has jurisdiction to act in this matter pursuant to Wis. Stat. § 441.07(1)(b),(c), and (d), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

B. The conduct described in paragraphs 2 through 5, above, violated Wis. Adm. Code §§ N 7.03(2) and N 7.04(1), (2) and (15). Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

### **ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, effective the date of this Order:

### **SUSPENSION**

- A.1. The license of Kimberly I. Roders, L.P.N., to practice as a nurse in the State of Wisconsin is **SUSPENDED** for 30 days (for making a false statement to a Board investigator) and then for an indefinite period. The privilege of Respondent to practice as a nurse in the State of Wisconsin under the authority of another state license pursuant to the Nurse Licensure Compact is also **SUSPENDED** for an indefinite period.
- A.2. Respondent shall mail or physically deliver all indicia of nursing licensure to the Department Monitor within 14 days of the effective date of this order.
- A.3. During the pendency of this Order and any subsequent related orders, Respondent may not practice in another state pursuant to the Nurse Licensure Compact under the authority of the Wisconsin license, unless Respondent receives prior written authorization to do so from both the Wisconsin Board of Nursing and the regulatory authority in the other state.
- A.4. Upon a showing by Respondent of continuous, successful compliance for a period of at least five (5) years with the terms of this Order, including at least 600 hours of active nursing for every year the suspension is stayed, the Board may grant a petition by the Respondent under paragraph D.4. for return of full licensure.
- A.5. The Board may, on its own motion or at the request of the Department Monitor, grant full licensure at any time.

### **STAY OF SUSPENSION**

- B.1. The suspension shall be stayed upon Respondent petitioning the Board and providing proof, which is determined by the Board or its designee to be sufficient, that Respondent is in compliance with the provisions of Sections C and D of this Order.
- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of Sections C or D of this Order. Repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Board 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 B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:

- (a) Mailing to Respondent's last-known address provided to the Department of Regulation and Licensing pursuant to Wis. Stat. § 440.11; or
  - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.
- B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. RL 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

### CONDITIONS AND LIMITATIONS

#### Treatment Required

- C.1. Respondent shall enter into, and shall continue, in a drug and alcohol treatment program at a treatment facility (Treater) acceptable to the Board or its designee. Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Respondent shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation, drug monitoring and treatment program as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as Treater, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater, but not less than twice per month for the first year. Therapy may end only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in the drug and alcohol treatment program. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

#### Releases

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

#### AA/NA Meetings

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

#### Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, Treater and the Board or its designee.

- C.10. Respondent shall abstain from all use of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation.
- C.11. Respondent shall report all medications and drugs, over-the-counter or prescription, taken by Respondent to Treater and the Department Monitor within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. If Respondent has not provided a release as required by C.9 above, within 24 hours of a request by Treater or the Board or its designee, Respondent shall provide releases in compliance with state and federal laws. The releases shall authorize the person who prescribed, dispensed, administered or ordered the medication to discuss Respondent's treatment with, and provide copies of treatment records to, the requester.

#### Drug and Alcohol Screens

- C.12. Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department pursuant to Wis. Adm. Code § RL 7.11 ("Approved Program"). A list of Approved Programs is available from the Department Monitor.
- C.13. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
- (a.) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
  - (b.) Production of a urine specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.14. The Approved Program shall require the testing of urine specimens at a frequency of not less than 56 times per year, for the first year of this Order. After the first year, the frequency may be reduced only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.15. The Department Monitor, Board or Board designee shall determine the tests to be performed upon the specimens. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Treater or the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- C.16. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to do any or all of the following: (a) submit additional urine specimens, (b) submit blood, hair or breath specimens, (c) furnish any specimen in a directly witnessed manner.
- C.17. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody.
- C.18. The Approved Program shall submit information and reports to the Department Monitor in compliance with the requirements of Wis. Adm. Code § RL 7.11.

#### Practice Limitations

- C.19. Respondent shall not work as a nurse or other health care provider in a setting in which Respondent has access to controlled substances.
- C.20. Respondent shall practice only under the direct supervision of a licensed nurse or other licensed health care professional approved by the Board or its designee and only in a work setting pre-approved by the Board or its designee. Respondent may not work in a home health care, hospice, pool nursing, or agency setting.
- C.21. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel at all settings where Respondent works as a nurse or care giver or provides health care, currently or in the future.
- C.22. It is Respondent's responsibility to arrange for written reports from supervisors to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance, and shall include the number of hours of active nursing practice worked during that quarter.

- C.23. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

### MISCELLANEOUS

#### Department Monitor

- D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor  
Wisconsin Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Ave.  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax: (608) 266-2264  
Telephone: (608) 267-3817

#### Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent. Additionally, every three (3) months the Respondent shall notify the Department Monitor of the Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.

#### Change of Treater or Approved Program by Board

- D.3. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

#### Petitions for Modification of Limitations or Termination of Order

- D.4. Respondent may petition the Board for modification of the terms of this Order or termination, however no such petition for modification shall occur earlier than one year from the date of this Order and no such petition for termination shall occur other than in compliance with paragraph A.3. Any such petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.

#### Costs of Compliance

- D.5. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

#### Costs of Proceeding

- D.6. Respondent shall pay costs of \$550, to the Department of Regulation and Licensing, before 3/5/09. In the event Respondent fails to timely submit full payment of costs, the Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has paid the costs in full, together with any accrued interest.

#### Additional Discipline

- D.7. In addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 441.07.

Dated at Madison, Wisconsin this September 4, 2008,

WISCONSIN BOARD OF NURSING, by:

Marilyn Kaufmann  
Chairperson