

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE
APPLICATION OF

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:
:
:
:

DECISION AND ORDER

DEBRA A. BUTTERWORTH, R.N.,
APPLICANT.

LS0809044NUR

Division of Enforcement Case #08 NUR 156

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

Debra A. Butterworth
2018 Durand Avenue
Racine, Wisconsin 53403
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

Applicant has applied to the Board for a license as a professional nurse, and that application is pending. The parties in this matter agree to the terms and conditions of the attached Stipulation and this Decision and Order, as the decision of the Board in the matter of Applicant's application for a license, 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. Debra Ann Butterworth, Applicant, date of birth 8/6/52, was licensed as a professional nurse by the New Jersey Board of Nursing on 9/1/75, and subsequently by the Pennsylvania Board of Nursing as a professional nurse, license #RN214457L on 10/18/76. She has applied for Wisconsin licensure by endorsement.

2. Applicant has been twice convicted of operating a motor vehicle while influenced by an intoxicant, in Pennsylvania. As a result, the Pennsylvania Board of Nursing entered into a Consent Agreement and Order with Applicant, finding that she was chemically dependent upon alcohol and had been since 2006, and requiring that she submit to chemical dependency treatment, and monitoring, for a period of at least three years from the date of the Order, 9/10/07.

CONCLUSION OF LAW

The Wisconsin Board of Nursing is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

ORDER

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

IT IS FURTHER ORDERED, effective the date of this Order, the APPLICATION of Debra A. Butterworth, R.N, for licensure as a professional nurse is GRANTED.

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

SUSPENSION

- A.1. The license of Debra A. Butterworth, R.N., to practice as a professional nurse in the State of Wisconsin is SUSPENDED for an indefinite period.
- A.3. Upon a showing by Applicant 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 Applicant under paragraph D.4. for return of full licensure.
- A.4. 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 Applicant petitioning the Board and providing proof, which is determined by the Board or its designee to be sufficient, that Applicant 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 Applicant 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 Applicant 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 Applicant either by:
 - (a) Mailing to Applicant's last-known address provided to the Department of Regulation and Licensing pursuant to Wis. Stat. § 440.11; or
 - (b) Actual notice to Applicant or Applicant's attorney.
- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Applicant 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 Applicant 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 Applicant's request, unless waived by Applicant. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

CONDITIONS AND LIMITATIONS

Treatment Required

- C.1. Applicant 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. Applicant shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Applicant 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 Applicant'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, Applicant 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 Applicant'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. Applicant 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 Applicant's treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

AA/NA Meetings

C.7. Applicant 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 Applicant at such meetings shall be verified and reported monthly to Treater and the Department Monitor.

Sobriety

C.8. Applicant shall abstain from all personal use of alcohol.

C.9. Applicant 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. Applicant shall disclose Applicant's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Applicant 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 Applicant's treatment with, and provide copies of treatment records to, Treater and the Board or its designee.

C.10. Applicant 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 Applicant's treatment and rehabilitation.

C.11. Applicant shall report all medications and drugs, over-the-counter or prescription, taken by Applicant 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 Applicant 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, Applicant 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 Applicant's treatment with, and provide copies of treatment records to, the requester.

Drug and Alcohol Screens

C.12. Applicant 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 Applicant enrolls in the Approved Program, Applicant 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. 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, Applicant 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 Applicant 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. Applicant 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. Applicant 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. Applicant may not work in a home health care, hospice, pool nursing, or agency setting.
- C.21. Applicant shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel at all settings where Applicant works as a nurse or care giver or provides health care, currently or in the future.
- C.22. It is Applicant'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 Applicant's work performance, and shall include the number of hours of active nursing practice worked during that quarter.
- C.23. Applicant 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 Applicant

- D.2. Applicant is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Applicant 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. Applicant shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Applicant. Additionally, every three (3) months the Applicant shall notify the Department Monitor of the Applicant'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 Applicant continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification of Limitations or Termination of Order

- D.4. Applicant may petition the Board for modification of the terms of this Order or termination, however no such petition for modification shall occur earlier than six months 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 Applicant'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 Applicant shall not have a right to any further hearings or proceedings on the denial. Applicant may, after one full year of successful compliance, request the Board to credit her with time spent in practice without relapse under the terms and conditions of the Pennsylvania order; it is entirely within the discretion of the Board whether to grant or deny such credit, in whole or in part, and Applicant shall not have a right to any further hearings or proceedings on any denial.

Costs of Compliance

D.5. Applicant 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.

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