

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE WISCONSIN BOARD OF NURSING

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IN THE MATTER OF  
THE APPLICATION OF

KATHLEEN SAYLES,  
APPLICANT

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:  
:  
:  
:  
:  
:

ORDER FOR ORIGINAL  
LIMITED LICENSE

**0003103**

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The parties to this action are:

KATHLEEN SAYLES  
294 51ST ST  
CALEDONIA WI 53108

Wisconsin Board of Nursing  
P.O. Box 8935  
Madison, WI 53708-8366

Division of Professional Credential Processing  
Department of Safety and Professional Services  
P.O. Box 8935  
Madison, WI 53707-7190

FINDINGS OF FACT

1. Applicant Kathleen Sayles (dob 08/31/1955) was licensed in the State of Wisconsin as a Registered Nurse, having license number 143136-30, first issued on January 13, 2003. Kathleen Sayles' most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 294 51st St., Caledonia, WI 53108.
2. Between October 31 and November 1, 2008 while working as a Registered Nurse at the Milwaukee County Behavior Health Division in Wauwatosa, Wisconsin, Applicant diverted narcotics for personal use.
3. Respondent was previously enrolled in Professional Assistance Program (PAP) but was discharged from the program.
4. On November 3, 2011, The Wisconsin Board of Nursing (Board) issued Final Decision and Order # 0001180 on stipulated agreement of the parties providing for the SURRENDER of Applicant's license to practice as a professional nurse in the State of Wisconsin and the privilege of Applicant to practice nursing in the State of Wisconsin or another state pursuant to the Nurse Licensure Compact.

5. Applicant has reapplied for licensure to practice as a professional nurse in the State of Wisconsin.

6. Pursuant to Final Decision and Order # 0001180, in the event that Applicant petitioned the Board of Nursing for relicensure as a professional nurse in the future, the Board may, in its discretion, enter an order denying such petition or enter an order granting a license to practice as a professional nurse with certain restrictions or limitations.

### CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction to act in this matter pursuant to Wis. Stat. § 441.07.

2. The Board has authority under Order # 0001180 dated November 3, 2011, to issue a license with limitations to practice as a professional nurse to the Applicant.

### ORDER

IT IS HEREBY ORDERED that Applicant KATHLEEN SAYLES be GRANTED a LIMITED LICENSE to practice as a professional nurse in the State of Wisconsin with the following terms and conditions:

### REFRESHER COURSE

- A.1. Prior to resumption of practice, Kathleen Sayles must complete a nurse refresher course, at Applicant's expense, preapproved by the Board of Nursing or its designee.
- A.2. Kathleen Sayles shall provide a copy of this order to the organization that is providing the nurse refresher course.
- A.3. Upon successful completion of the nurse refresher course and after compliance with the terms of paragraph C1 below, Kathleen Sayles may resume practice as a registered nurse under the terms and conditions set forth below.

### SUSPENSION

- B.1. The license of Kathleen Sayles, R.N., (license number 143136-30), to practice as a nurse in the State of Wisconsin is SUSPENDED for an indefinite period.
- B.2. The privilege of Kathleen Sayles, R.N., to practice as a nurse in the State of Wisconsin under the authority of another state's license pursuant to the Nurse Licensure Compact is also SUSPENDED for an indefinite period.
- B.3. During the pendency of this Order and any subsequent related orders, Applicant may not practice in another state pursuant to the Nurse Licensure Compact under the

authority of a Wisconsin license, unless Applicant receives prior written authorization to do so from both the Wisconsin Board of Nursing and the regulatory board in the other state.

- B.4. 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 E.6. for return of full Wisconsin licensure. The Board may, on its own motion or at the request of the Department Monitor, grant full Wisconsin licensure at any time.

#### STAY OF SUSPENSION

- C.1. The suspension shall not be stayed for the first three (3) months, but any time after three (3) months the suspension may be stayed upon Applicant providing proof, which is determined by the Board or its designee to be sufficient, that Applicant has been in compliance with the provisions of Sections D and E of this Order for the most recent three (3) consecutive months.
- C.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 D or E of this Order. A substantial violation includes, but is not limited to, a positive drug or alcohol screen. A repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Board or its designee 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 C.4.
- C.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 Safety and Professional Services pursuant to Wis. Stat. § 440.11; or
  - (b) Actual notice to Applicant or Applicant's attorney.
- C.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.
- C.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. SPS 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

- D.1. Applicant shall enter into, and shall continue, drug and alcohol treatment with a treater acceptable to the Board or its designee ("Treater"). Applicant shall participate in, cooperate with, and follow all treatment recommended by Treater.
- D.2. Applicant shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- D.3. Treater shall be responsible for coordinating Applicant's rehabilitation and treatment 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 E.1., below). If Treater is unable or unwilling to serve as required by this Order, Applicant shall immediately seek approval of a successor Treater by the Board or its designee.
- D.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only with the approval of the Board or its designee, after receiving a petition for modification as required by E.5., below.
- D.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 drug and alcohol treatment. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

### Releases

- D.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 Safety and Professional Services, Division of Legal Services and Compliance to: (a) obtain all specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Applicant's treatment and rehabilitation with Treater and treatment facilities and personnel, laboratories and collection sites. Copies of these releases shall immediately be filed with the Department Monitor.

### AA/NA Meetings

- D.7. Applicant shall attend Narcotics Anonymous and/or Alcoholics 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 quarterly to Treater and the Department Monitor.

### Sobriety

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

D.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. Copies of these releases shall immediately be filed with the Department Monitor.

D.10. Applicant shall abstain from all use of over-the-counter medications or other substances (including but not limited to natural substances such as poppy seeds) which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Applicant's treatment and rehabilitation. It is Applicant's responsibility to educate himself or herself about the medications and substances which may violate this paragraph, and to avoid those medications and substances.

D.11. Applicant shall report to Treater and the Department Monitor all prescription medications and drugs taken by Applicant. Reports must be received within 24 hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Applicant shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.

D.12. Applicant shall provide the Department Monitor with a list of over-the-counter medications and drugs that they may take from time to time. Over-the-counter medications and drugs that mask the consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Applicant's treatment and rehabilitation, shall not be taken unless ordered by a physician and approved by Treater, in which case the drug must be reported as described in paragraph D.11.

### Drug and Alcohol Screens

D.13. Applicant shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department ("Approved Program").

D.14. 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, blood, sweat, fingernail, hair, saliva or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.

D.15. The Approved Program shall require the testing of specimens at a frequency of not less than 49 times per year, (1 of which must be hair tests) for the first year of this Order. After the first year, Applicant may petition the Board on an annual basis for a modification of the frequency of tests. The Board may adjust the frequency of testing on its own initiative at any time.

D.16. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or alcohol, Applicant shall promptly submit to additional tests or examinations as the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.

D.17. 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 specimens; (b) furnish any specimen in a directly witnessed manner; or (c) submit specimens on a more frequent basis.

D.18. 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, fault in the chain of custody or other valid defense.

D.19. The Approved Program shall submit information and reports to the Department Monitor as directed.

#### Practice Limitations

D.20. Applicant shall not work in a setting in which Applicant has access to controlled substances.

D.21. Applicant shall practice only under the direct supervision of a licensed Registered Nurse or other licensed health care professional approved by the Board or its designee.

- D.22. Applicant shall practice only in a work setting pre-approved by the Board or its designee.
- D.23. Applicant may not work in a home health care, hospice, pool nursing, assisted living, or agency setting.
- D.24. 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.
- D.25. 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. If a report indicates poor performance, the Board may institute appropriate corrective limitations, or may revoke a stay of the suspension, in its discretion.
- D.26. 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

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

Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

##### Required Reporting by Applicant

- E.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.

- E.3. 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 the Board

- E.4. 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

- E.5. Applicant may petition the Board on an annual basis for modification of the terms of this Order, however no such petition for modification shall occur earlier than one year from the date of the initial stay of the suspension. Any 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.
- E.6. Applicant may petition the Board for termination of this Order anytime after five years from the date of the initial stay of the suspension. However, no petition for termination shall be considered without a showing of continuous, successful compliance with the terms of the Order, for at least five years.

Costs of Compliance

- E.7. 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.

This Order is effective on the date of its signing.

Dated at Madison, Wisconsin this 10 day of March, 2014

WISCONSIN BOARD OF NURSING

By: Julius Nelson, RN

A Member of the Board