

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

SEAN K. MCNEILL, R.N.
RESPONDENT.

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FINAL DECISION AND ORDER

0004916

Division of Legal Services and Compliance Case No. 16 NUR 073

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

Sean K. McNeill, R.N.
207 9th St. South
La Crosse, WI 54601-6813

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

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Board of Nursing (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Sean K. McNeill, R.N., (dob January 31, 1969) is licensed in the State of Wisconsin as a professional nurse, having license number 163709-30, first issued on August 13, 2008 and current through February 28, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 207 9th Street South, La Crosse, Wisconsin 54601-6813.

2. In February 2013, Respondent was involved with a physical altercation with his son which led to Respondent being charged with disorderly conduct.

3. On September 5, 2013, Respondent, in La Crosse County circuit court case number 2013CF221, pled guilty to three (3) counts of disorderly conduct, in violation of Wis. Stat. § 947.01(1), a misdemeanor.

4. Respondent was sentenced to twelve (12) months of probation, an AODA assessment and follow-up treatment.

5. In April 2015, Respondent, while intoxicated, was involved in a domestic dispute with his significant other at his house. The dispute escalated to screaming and yelling. Respondent's significant other left his residence.

6. Respondent later went to his significant other's house and refused to leave. Respondent was arrested and charged with disorderly conduct.

7. On May 12, 2015, Respondent completed an initial diagnostic assessment and was diagnosed with alcohol use disorder, severe, and was referred to an intensive outpatient chemical dependence treatment program.

8. On September 14, 2015, Respondent completed the intensive outpatient treatment program and continued with one-on-one psychotherapy.

9. As a result of the April 2015 incident, Respondent, on December 10, 2015, in La Crosse County circuit court case number 2015CF257, was convicted of two (2) counts of disorderly conduct, in violation of Wis. Stat. § 947.01(1), a misdemeanor.

10. On February 4, 2016, Respondent reported his 2013 and 2015 disorderly conduct convictions to the Department.

11. In March 2016, Respondent ended his psychotherapy treatment. Respondent's treater noted that Respondent's prognosis was good with a final diagnosis of adjustment disorder with disturbances of emotion and conduct and alcohol use disorder, severe, in full sustained remission.

12. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

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

2. By the conduct described in the Findings of Fact, Sean K. McNeill, R.N., violated Wis. Stat. § 440.03(13)(am), by failing to report a conviction of a felony or misdemeanor within 48 hours after the entry of the judgment of conviction.

3. By the conduct described in the Findings of Fact, Sean K. McNeill, R.N., violated Wis. Admin. Code § SPS 4.09(2), by failing to report a conviction of a felony or misdemeanor within 48 hours after the entry of the judgment of conviction.

4. By the conduct described in the Findings of Fact, Sean K. McNeill, R.N., engaged in unprofessional conduct as defined by Wis. Admin. Code § N 7.03(1)(h), by failing to notify the board of a felony or misdemeanor in writing within 48 hours after the entry of the judgment of conviction.

5. By the conduct described in the Findings of Fact, Sean K. McNeill, R.N., engaged in unprofessional conduct as defined by Wis. Admin. Code § N 7.03(2), by violating or aiding and abetting a violation of any law substantially related to the practice of nursing or being convicted of any crime substantially related to the practice of nursing.

6. As a result of the above conduct, Sean K. McNeill, R.N., is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Sean K. McNeill, R.N., is REPRIMANDED.

3. The professional nursing license issued to Sean K. McNeill, R.N., (license number 163709-30) to practice nursing in the State of Wisconsin, and his privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, is LIMITED as follows:

a. For a period of at least two (2) years from the date of this Order:

i. Respondent shall enroll and participate in a drug and alcohol monitoring program which is approved by the Department (Approved Program). Enrollment shall occur within thirty (30) calendar days from the date of this Order.

ii. 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:

1. Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.

2. 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.

3. The Approved Program shall require the testing of specimens at a frequency of not less than forty-nine (49) times per year, for at least the first year of this Order. Thereafter, the Board may adjust the frequency of testing on its own initiative at any time.
- iii. Respondent shall abstain from all personal use of alcohol.
 - iv. 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, the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
 - v. Respondent shall report to the Department Monitor all prescription medications and drugs taken by Respondent. 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, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.
 - vi. Respondent 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 Respondent's treatment and rehabilitation, shall not be taken unless ordered by a physician, in which case the drug must be reported as described in the paragraph 3(a)v.
 - vii. All positive test results are presumed valid and may result in automatic suspension of licensure by the Board or the Board's designee. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
 - viii. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or

alcohol, Respondent 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.

- ix. Respondent shall practice only in a work setting pre-approved by the Board or its designee.
- x. Respondent shall provide her nursing employer with a copy of this Order before engaging in any nursing employment. Respondent shall provide the Department Monitor with written acknowledgment from each nursing employer that a copy of this Order has been received. Such acknowledgment shall be provided to the Department Monitor within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order for employment current as of the date of this Order.

4. The professional nursing license issued to Sean K. McNeill, R.N., (license number 163709-30) to practice nursing in the State of Wisconsin, and his privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, is further LIMITED as follows:

- a. For a period of at least two (2) years while working at least half-time as a nurse, Respondent shall work only under direct supervision, and only in a work setting pre-approved by the Board. Respondent shall not work in a home health, assisted living, agency, pool or as a nurse in a correctional setting.
- b. For a period of at least two (2) years while working at least half-time as a nurse, Respondent shall arrange for his nursing employer(s) to send to the Department Monitor quarterly reports, reporting the terms and conditions of Respondent's employment and evaluating his work performance.
- c. After two (2) years of working at least half-time as a nurse, Respondent may petition the board for the modification or termination of these limitations. The Board may grant or deny the petition, in its discretion, or may modify this Order as it sees fit.

5. Pursuant to Uniform Nurse Licensure Compact regulations, Respondent's nursing practice is limited to Wisconsin during the pendency of this limitation. This requirement may be waived only upon the prior written authorization of both the Wisconsin Board of Nursing and the regulatory board in the state in which Respondent proposes to practice.

6. The Board or its designee may, without hearing, suspend Respondent's nursing license upon receipt of information that Respondent is in substantial or repeated violation of any provision 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 violations of the same provision or violation of more than one provision.

7. The Board or its designee may terminate the suspension if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the suspension to be terminated. Whether to terminate the suspension shall be wholly in the discretion of the Board or its designee.

8. After the first year from the date of this Order, Respondent may petition the Board on an annual basis for a modification of the terms of this Order. After two (2) consecutive years of successful compliance, the Respondent may petition the Board for return of full licensure. The Board may grant or deny any petition, in its discretion, or may modify this Order as it sees fit.

9. Within 120 days from the date of this Order, Sean K. McNeill, R.N., shall pay COSTS of this matter in the amount of \$650.00.

10. Any reports, requests, or documents and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

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

11. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely enroll and participate in an approved drug and alcohol monitoring program, fails to comply with the requirements of the approved drug and alcohol monitoring program, fails to work under direct supervision while employed as a nurse, works in an unapproved work setting, fails to timely submit reports or fails to timely submit payment of the costs as ordered, Respondent's license (no. 163709-30) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has enrolled and participated in an approved drug and alcohol monitoring program, complied with the requirements of the approved drug and alcohol monitoring program, works in an approved work setting, timely submitted work reports, and complied with payment costs.

12. This Order is effective on the date of its signing.

WISCONSIN BOARD OF NURSING

by: Judy X. Allen DNP, APRN
A Member of the Board

9.8.16
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

SEAN K. MCNEILL, R.N.,
RESPONDENT.

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STIPULATION

0004916

Division of Legal Services and Compliance Case No. 16 NUR 073

Respondent Sean K. McNeill, R.N., and the Division of Legal Services and Compliance,
Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the
Division of Legal Services and Compliance. Respondent consents to the resolution of this
investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily
and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has
the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by
subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral
arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution,
the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code,
and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has
been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent
is represented by Attorney Keith Belzer.


4. Respondent agrees to the adoption of the attached Final Decision and Order by
the Wisconsin Board of Nursing (Board). The parties to the Stipulation consent to the entry of
the attached Final Decision and Order without further notice, pleading, appearance or consent of
the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the
form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.


6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.


8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Sean K. McNeill, R.N., Respondent
207 9th St. South
La Crosse, WI 54601-6813
License no. 163709-30

7-6-16
Date


Keith Belzer, Attorney for Respondent
Devanie Belzer & Schroeder, SC
300 N. 2nd St., Ste. 200
La Crosse, WI 54601

7/6/16
Date


Amanda L. Florek, Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

7/12/16
Date