

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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- 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 Safety and Professional Services 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/wscca>

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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF APPLICATION FOR
A PRACTICAL NURSE LICENSE

NICHOLAS E. DERKOWSKI,
APPLICANT.

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ORDER GRANTING
LIMITED LICENSE

0005856

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

Nicholas E. Derkowski
1144 High Avenue
Oshkosh, WI 54901

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

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. Nicholas E. Derkowski (Applicant) has filed an application (#646769) for a credential to practice as a Practical Nurse in Wisconsin.
2. Applicant's most recent address on file with the Wisconsin Department of Safety and Professional Services is 1144 High Avenue, Oshkosh, Wisconsin 54901.
3. Information received in the application process reflects that Applicant has the following convictions:
 - a. On or about April 6, 2015, Applicant was convicted of OWI 1st, a misdemeanor.
4. An AODA Diagnostic Summary completed in 2015 diagnosed Applicant with Opioid dependence in remission, Cannabis dependence in remission, and Alcohol abuse in remission.

CONCLUSIONS OF LAW

1. The Board 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. §§ 15.08(5)(c) and 227.44(5).
2. By the conduct stated in the Findings of Fact, Applicant violated Wis. Stat. §§ 441.07(1g)(b) and (c), Wis. Admin. Code § 7.03(6)(f) and is unable to practice safely by reason of alcohol or other substance abuse.

ORDER

1. The attached Stipulation is accepted.
2. Limitations upon Applicant's license are necessary to ensure that he is fit and competent to practice as a Practical Nurse. Applicant is granted a practical nurse license to practice nursing in the state of Wisconsin subject to the following limitations, terms and conditions:
 - a. For a period of at least two (2) years from the date of this Order:
 - i. Applicant shall enroll and participate in a drug 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 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 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. Applicant shall abstain from all personal use of alcohol.

- iv. 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, the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
- v. Applicant shall report to 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.
- vi. Applicant shall provide the Department Monitor with a list of over-the-counter medications and drugs that Applicant may take from time to time. Over-the-counter medications and drugs that mask the consumption of controlled substances, create false positive screening results, or interfere with Applicant'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)iv.
- vii. All positive test results are presumed valid and may result in automatic suspension of licensure by the Board or the Board's designee. Applicant 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, 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.
- ix. Applicant shall provide Applicant's nursing employer with a copy of this Order before engaging in, or continuing to engage in, any nursing employment. Applicant 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.

3. Applicant may not work as a nurse or other health care provider in a setting in which Applicant has access to controlled substances.
4. Pursuant to Nurse Licensure Compact regulations, Applicant's nursing practice is limited to Wisconsin during the pendency of this limitation.
5. The Board or its designee may, without hearing, suspend Applicant's nursing license upon receipt of information that Applicant is in violation of any provision of this Order. The Board or its designee may, in conjunction with the suspension, prohibit Applicant from seeking termination of the suspension for a specified period of time.
6. The Board or its designee may terminate the suspension if provided with sufficient information that Applicant 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.
7. The Board may refer any violation of this Order to the Division of Legal Services and Compliance for investigation and action.
8. After the first year from the date of this Order, Applicant 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, Applicant 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. Any requests, petitions, reports and other information required by this Order shall be mailed, emailed, 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

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

WISCONSIN BOARD OF NURSING

by: Sheryl Krause *SK*
A Member of the Board

8/29/2018
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF APPLICATION FOR
A PRACTICAL NURSE LICENSE

NICHOLAS E. DERKOWSKI,
APPLICANT.

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STIPULATION

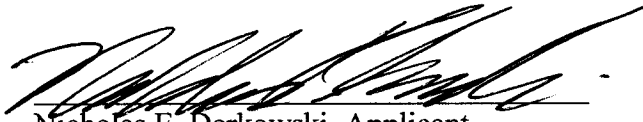
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It is stipulated between the Applicant and the Wisconsin Board of Nursing (Board) as follows:

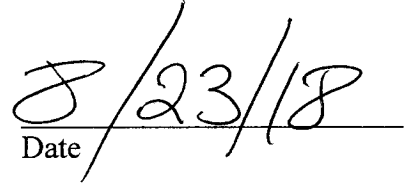
1. The Applicant has filed an application for a professional nurse license.
2. Based upon the information of record, the Board agrees to issue, and the Applicant agrees to accept, an Order granting a renewal of license as a professional nurse, subject to the terms and conditions set forth in the attached Order adopting the Stipulation.
3. Applicant understands that by signing this Stipulation, Applicant voluntarily and knowingly waives the following rights:
 - the right to request a hearing related to the denial of the application;
 - the right to confront and cross-examine the witnesses against Applicant;
 - the right to call witnesses on Applicant's behalf and to compel their attendance by subpoena;
 - the right to testify on Applicant'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 the Applicant under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
4. Applicant is aware of Applicant's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.
5. Applicant agrees to the adoption of the attached Order Granting Limited License by the Board. The parties to the Stipulation consent to the entry of the attached Order Granting Limited License without further notice, appearance, or consent of the parties.
6. Applicant waives all rights to any appeal of the Board's Order, as adopted in the form as attached.

7. Applicant is informed that the Order Granting Limited License is a public record and will be published in accordance with standard procedure.

8. Applicant is informed that the Order Granting Limited License is an encumbrance as defined by the Nurse Licensure Compact (NLC) and the Applicant's multi-state license and/or privilege, if any, will be subject to all terms and conditions of the NLC.



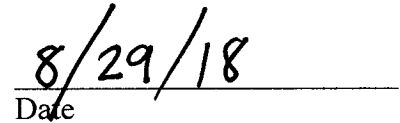
Nicholas E. Derkowski, Applicant
1144 High Avenue
Oshkosh, WI 54901



Date



A Member of the Board of Nursing
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190



Date