

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF APPLICATION FOR :
RENEWAL OF A REGISTERED NURSE :
LICENSE :

DAVID S. LENNINGER, R.N., :
APPLICANT. :

**ORDER GRANTING
LIMITED LICENSE**

ORDER 0006340

Division of Legal Services and Compliance Case Nos. 18 NUR 604, 19 NUR 213, DHA Case.
No. 19-0010

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

David S. Lenninger
N8066 Copper Point Drive
New Lisbon, WI 53950

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

INTRODUCTION

David Lenninger, R.N., (Applicant), (DOB: August 2, 1981) applied to renew his Wisconsin Registered Nurse license (no.179959-30). Applicant entered a "No Contest" plea on October 15, 2018, resulting in a misdemeanor conviction of Fourth Degree Sexual Assault. The Wisconsin Board of Nursing (Board) reviewed Applicant's renewal application on November 8, 2018. A Notice of Denial was sent to Applicant on November 28, 2018 finding that Applicant's misdemeanor conviction was substantially related to the practice of a Registered Nurse. The Department of Safety and Professional Services (Department) received a letter from Applicant's attorney with a request for a hearing regarding the Board's decision to deny the renewal. Applicant's request for a hearing was granted. The Board reconsidered Applicant's renewal application at the July 11, 2019 meeting, and finds the following:

FINDINGS OF FACT

1. David Lenninger, R.N., (Applicant) filed an application for renewal of his Wisconsin Registered Nurse license (no.179959-30). Such license, first issued on or about September 30, 2011 was scheduled for renewal by February 28,2018. Applicant's request to renew was timely.

2. Applicant's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is N8066 Copper Point Drive, New Lisbon, WI 53950.

3. Information received in the application process reflects that Applicant has the following conviction:

a. On or about October 15, 2018, Applicant pled No Contest to and was convicted of Fourth Degree Sexual Assault, a misdemeanor conviction, in violation of Wis. Stat. § 940.225(3m). A No Contest Plea has the same effect as a guilty plea, in that it results in a criminal conviction. However, such a plea, as well as statements and conduct incidental thereto, are not admissible in any subsequent civil proceeding. Mr. Lenninger pled No Contest to avoid the uncertainty, time, and cost of litigation. He still disputes the facts as alleged in the criminal complaint.

i. Applicant was put on probation for twelve (12) months, was required to pay restitution to the victim, undergo an AODA assessment and follow through with any treatment recommendations. Applicant was also required to continue to address Applicant's own personal issues, and undergo any other assessments or evaluations as deemed appropriate and follow through with any treatment recommendations.

4. That Applicant has, to date, successfully participated in his probation, complied with all of his conditions and is set to complete his probation as scheduled.

5. That Applicant has also participated in and completed a fitness to practice evaluation which has found him to be fit and safe to continue practice in the field of nursing, both as an RN and an APNP. A copy of this evaluation has been provided to the Board.

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) and 15.08(5)(c).

2. By the conduct described in the Findings of Fact, David S. Lenninger, R.N., APNP, violated 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. David Lenninger disputes that the incident described herein is

substantially related to the practice of nursing, but admits that there is evidence that could be sufficient to support this finding.

3. Fourth Degree Sexual Assault is an exempt offense pursuant to Wis. Stat. § 111.335(1m)(b).

4. David Lenninger disputes the Board's findings but admits that The Board has grounds to deny the application to renew the Registered Nurse License of David S. Lenninger, R.N., of David S. Lenninger, R.N., APNP, pursuant to Wis. Stat. §§ 441.07(1g)(b), 441.07(1g)(d), 440.08(4), 111.335(1m)(b), 111.335(3)(a)1., 111.335(4)(c)2., and Wis. Admin. Code § N 7.03(2).

ORDER

1. The Registered Nurse license of David S. Lenninger, R.N., (license number 179959-30) of David S. Lenninger, R.N., APNP and his privilege to practice in Wisconsin pursuant to the Enhanced Nurse Licensure Compact (ENLC), is LIMITED as follows:

a. Within forty-five (45) days of this Order, Applicant shall have, at his own expense, undergone a fitness to practice evaluation with a psychiatrist or psychologist experienced in evaluating health care practitioners' fitness for duty. Applicant shall also have, at his own expense, undergone an Alcohol and Other Drug Abuse (AODA) assessment by a licensed mental health professional that has experience evaluating persons with substance use disorders. The fitness to practice evaluation requirement was satisfied by the evaluation Mr. Lenninger participated in, at the Paquette Center for Psychological Services. Mr. Lenninger has also satisfied the requirements of an AODA assessment which was done as part of his probation. A copy of the AODA assessment and the Fitness to Practice Evaluation have been provided to the Board.

- i. Within fifteen (15) days of the completion of the evaluation and assessment, a written report regarding the results of the evaluation and assessment shall be submitted to the Department of Safety and Professional Services Monitor (Department Monitor) at the address below. These documents have been already submitted to the Board.
- ii. The report following the fitness to practice evaluation shall address whether Applicant suffers from any condition(s) that may interfere with his ability to practice nursing safely and, if so, shall provide any recommended limitations for safe practice.
- iii. The report following the AODA assessment shall address a detailed history of past and present substance use, a history of prior substance use treatments, efforts to stop use, and outcomes, current readiness to change, general medical and psychiatric history, family history of substance use and psychiatric disorders, social history (family and peer relationships, financial and legal problems), educational and occupational history, diagnosis, and treatment recommendations.

- iv. Applicant shall execute necessary documents authorizing the Department to obtain records of evaluation. Applicant shall execute all releases necessary to permit disclosure of the final evaluation report to the Board or its designee.
 - v. Applicant shall comply with any and all reasonable requests by the evaluator for purposes of scheduling and completing the evaluation, including additional testing the examiner deems helpful. Any lack of reasonable and timely cooperation, as determined by the examiner, may constitute a violation of an order of the Board.
- b. Applicant is responsible for timely payment of the costs of the examination. Payment shall be made directly to the evaluator.
 - c. All the evaluator's recommendations and/or professional limitations will be implemented. For at least (1) year from the date of this Order, Applicant shall submit proof of Applicant's continuing participation in the evaluator's recommended treatment to the Department Monitor at the address stated below. The Applicant will submit proof of participation quarterly. Applicant is responsible for ensuring that the Department Monitor receive the quarterly reports.
2. Within ninety (90) days of the date of this Order, Applicant shall at his own expense, successfully complete twelve (12) credits of education on the topics of ethics, professionalism, and boundaries offered by a provider pre-approved by the Board's Monitoring Liaison, including taking and passing any exam offered for the courses.
- a. Applicant shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
3. For at least one (1) year from the date of this Order, while working at least half-time as a nurse, the Registered Nurse license of David S. Lenninger, R.N., (license number 179959-30) to practice nursing in the State of Wisconsin, and his privilege to practice in Wisconsin pursuant to the Enhanced Nurse Licensure Compact (ENLC), is LIMITED as follows:
- a. Applicant shall provide his nursing employer (via the supervisor) with a copy of this Order before engaging 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.

4. For at least (1) year from the date of this Order, while working at least half-time as a nurse, the Registered Nurse license of David S. Lenninger, R.N., (license number 179959-30) to practice nursing in the State of Wisconsin, and his privilege to practice in Wisconsin pursuant to the Enhanced Nurse Licensure Compact (ENLC), is LIMITED as follows:

- a. Applicant shall work under the supervision of a director, administrator or equivalent role. This supervision does not need to be direct and constant, in Mr. Lenninger's presence. Rather, this supervision is to be based on periodic observations and reviews of Mr. Lenninger's work performance.
- b. Applicant shall arrange for his immediate supervisor(s) to send to the Department Monitor quarterly reports, reporting the terms and conditions of Applicant's employment, evaluating his work performance, his adherence to employer policies and procedures, any counseling or discipline- formal or informal, and description of work performed. Applicant is responsible for ensuring that the Department Monitor receive the quarterly work reports.

5. Pursuant to Enhanced Nurse Licensure Compact regulations, Applicant's nursing practice is limited to Wisconsin during the pendency of this limitation.

6. After one (1) year of working at least half-time as a nurse, Applicant may petition the Board for the modification or termination of the limitations. The Board may grant or deny the petition, in its discretion. Applicant may then petition the Board no more than twice per year.

7. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order. Any requests, petitions, reports or other information required by this Order shall be 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

You may also submit this information online via DSPS' Monitoring Case Management System, here:

<https://app.wi.gov/DSPSMonitoring>

8. Applicant shall fully comply with the terms of his court ordered probation for his misdemeanor conviction.

9. In the event Applicant violates any term of this Order, Applicant's Advance Practice Nurse Prescriber certification, or Applicant's right to renew this license may, in the discretion of the Board or its designee, be **SUSPENDED**, without further notice or hearing, until Applicant has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN BOARD OF NURSING

by: Peter Kallio (Dena)
A Member of the Board

8/14/2019
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF APPLICATION FOR :
RENEWAL OF A REGISTERED NURSE :
LICENSE :

DAVID S. LENNINGER, R.N., :
APPLICANT. :

STIPULATION

ORDER 0006340

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

1. The Applicant has filed an application to renew his Registered Nurse license.
2. Based on information it has received, the Board is of the opinion that there exists a basis for denial of the renewal of the licensure.
3. Based upon the information of record herein, the Board agrees to issue, and the Applicant agrees to accept, an Order granting a renewal of license as a Registered Nurse, subject to the terms and conditions set forth in the attached Order adopting the Stipulation.
4. 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 Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
5. 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. Applicant is represented by attorneys Sean Gaynor and Trevor Levenson.
6. 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.

7. Applicant waives all rights to any appeal of the Board's Order, as adopted in the form as attached.

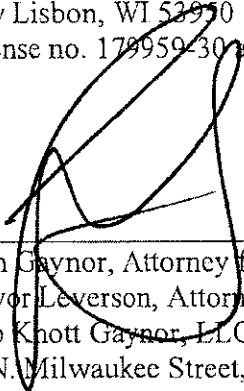
8. Applicant is informed that the Order Granting Limited License is a public record and will be published in accordance with standard procedure.

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



David S. Lenninger, Applicant
N8066 Copper Point Drive
New Lisbon, WI 53950
License no. 179959-30 and 4611-33

Date 8/2/19



Sean Gaynor, Attorney for Applicant
Trevor Levenson, Attorney for Applicant
Leib Knott Gaynor, LLC
19 N. Milwaukee Street, Suite 710
Milwaukee, WI 53202

Date 8/5/19



A Member of the Wisconsin Board of Nursing
P.O. Box 8366
Madison, WI 53707-7190

Date 8/14/2019