

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
A REGISTERED NURSE
LICENSE

ORDER GRANTING
LIMITED LICENSE

MACY WESTPHAL,
APPLICANT.

ORDER 0006435

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

Macy Westphal
310 Madison Way
Apartment 16
Shawano, WI 54166

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. Macy Westphal (Applicant) filed an application (#668483) for a license to practice as a registered nurse in the state of Wisconsin.
2. Applicant's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 310 Madison Way, Apartment 16, Shawano, Wisconsin 54166.

3. Information received in the application process reflects that Applicant has the following convictions and pending charges:

- a. On or about March 12, 2015, Applicant was convicted of Operating while Intoxicated (Wis. Stat. § 961.41(3g)(b)), Open Intoxicant in Motor Vehicle, and Operating with a PAC.
- b. On or about April 1, 2018, Applicant was charged in Shawano County Case number 2018CT111, of one (1) count of Operating While Intoxicated (2nd), a Class U misdemeanor, in violation of Wis. Stat. § 346.63(1)(a) and one (1) count of Operating with a PAC (2nd), a Class U misdemeanor, in violation of Wis. Stat. § 346.63(1)(b).
- c. On or About November 4, 2018, Applicant was charged in Shawano County Case number 2018CM489, of one (1) count of Bail Jumping-misdemeanor, a Class A misdemeanor, in violation of Wis. Stat. § 946.49(1)(a). Such charges were the result of Applicant consuming alcohol in violation of the terms of her bail.
- d. On or About December 20, 2018, Applicant was charged in Shawano County Case number 2018CM490, of two (2) counts of Bail Jumping-misdemeanor, a Class A misdemeanor, in violation of Wis. Stat. § 946.49(1)(a). Such charges were the result of Applicant consuming alcohol in violation of the terms of her bail.

4. In April 2019, via a court-ordered assessment, Applicant was diagnosed with “Alcohol Dependency in Remission.”

5. In resolution of this matter, Applicant 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 the attached Stipulation pursuant to Wis. Stat. §§ 15.08(5)(c) and 227.44(5).

2. The Board may deny the application of a license if the registered nurse committed a violation of Wis. Stat. § 441.07(1g).

3. By the conduct described in the Findings of Fact, Applicant violated Wis. Stat. § 441.07(1g)(c) by committing acts which show Applicant to be unfit or incompetent by reason of abuse of alcohol or other drugs.

4. As a result of the above conduct, Applicant is subject to limitations on her license pursuant to Wis. Stat. § 441.07(1g).

ORDER

1. The attached Stipulation is accepted.
2. Limitations upon Applicant's license are necessary to ensure that she is fit and competent to practice as a registered nurse. Applicant is granted a registered nurse license to practice nursing in the state of Wisconsin subject to limitations, terms, and conditions.
3. The Applicant's ability to practice professional nursing in the State of Wisconsin, and her privilege to practice in Wisconsin pursuant to the Enhanced Nurse Licensure Compact, is LIMITED as follows:
 - 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 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 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:
 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 she 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, in which case the drug must be reported as described in the paragraph 4(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. Applicant must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.

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.

- viii. Applicant shall provide her nursing employer 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. Applicant may work as a nurse or other health care provider in a setting in which the Applicant has access to controlled substances.

5. Pursuant to the Enhanced Uniform Nurse Licensure Compact (Compact) regulations, Applicant may not practice nursing in any state subject to the Compact, aside from Wisconsin, during the pendency of these limitations.

6. A violation of this Order includes a positive drug or alcohol screen.

7. 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, the 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.

8. Submission of information required by this Order shall be sent by Applicant 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

You may also submit this information online via DSPS Monitoring Case management System here:

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

9. In the event Applicant violates any term of this Order, Applicant's license, or Applicant's right to renew her license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing. 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. 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:

Letia Kallis
A Member of the Board

9/18/2019

Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

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

MACY WESTPHAL, :
APPLICANT. :

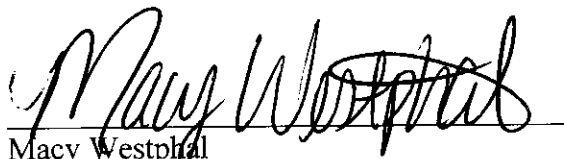
STIPULATION
ORDER 0006435

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

1. The Applicant has filed an application for a Registered Nurse license.
2. Information received by the Board reflects a basis for denial of the application.
3. Based upon the information of record herein, the Board agrees to issue, and the Applicant agrees to accept, an Order granting a license as a professional 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 United States Constitution, the Wisconsin Constitution, 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.
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.

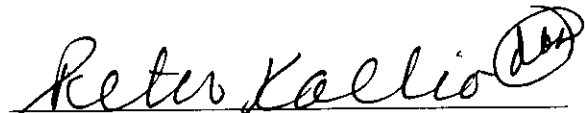
8. Applicant is informed that the Order Granting Limited License is a public record and will be published in accordance with standard procedure.

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.



Macy Westphal
310 Madison Way
Apartment 16
Shawano, WI 54166
Application No. 668483

9/10/19
Date



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

9/18/2019
Date