

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

ANDREA A. ATKINSON, R.N.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:
: **ORDER 0006894**

Division of Legal Services and Compliance Case Nos. 17 NUR 006 and 18 NUR 666

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

Andrea A. Atkinson, R.N.
Appleton, WI 54911

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 agree to the terms and conditions of the attached Stipulation as the final disposition of these matters, 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 these matters adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Andrea A. Atkinson (formerly Olson) (DOB: XX-XX-1982) is licensed in the state of Wisconsin as a registered nurse, having license number 177821-30, first issued on July 13, 2011, and current through February 28, 2022.

17 NUR 006

2. On January 3, 2017, Respondent submitted a urine sample for a pre-employment drug screen for employment at a nurse agency in Appleton, Wisconsin (Agency).

3. On January 6, 2017, the ten (10) panel urine test was verified by a medical review officer as being positive for the presence of marijuana.

4. On January 19, 2017, the Department's investigator sent a letter to Respondent's address on file with the Department requesting a response to the complaint filed by the Agency. No response was received.

5. On February 14, 2017, the Department's investigator sent an email to Respondent's email on file with the Department requesting a response. On February 28, 2017, the investigator received a fax notifying the Department that Respondent had retained an attorney who requested an extension of the due date of Respondent's response. The deadline was extended to March 13, 2017, but no response was received.

6. On March 20, 2017, the Department's investigator sent an email to Respondent's attorney inquiring about Respondent's response. On March 29, 2017, the Department's investigator telephoned Respondent's attorney who advised he would submit a response on behalf of Respondent the following Monday (April 3, 2017). No response was received by April 3, 2017.

7. On April 12, 2017, the Department's investigator emailed Respondent's attorney regarding the requested response.

8. On April 5, 2018, the Department's attorney sent Respondent's attorney a letter and asked for a response.

9. On November 9, 2018, the Department's investigator emailed Respondent's attorney and noted the prior unanswered requests for a response. Later that day, Respondent's attorney responded to the email saying he had spoken with someone at the Department who told him another investigator would contact him and no one did.

10. On December 20, 2018, the Department's investigator emailed Respondent's attorney again to request a written response from Respondent to the complaint.

11. To date, no written response to the complaint has been received by the Department from Respondent. Respondent denies that she intentionally consumed or inhaled marijuana.

18 NUR 666

12. At all relevant times, Respondent was employed as a registered nurse at a hospital in Green Bay (Hospital).

13. On December 14, 2018, the Department received a complaint from the Hospital reporting suspected diversion of narcotics by Respondent. The Hospital conducted an investigation after Respondent's estranged husband reported on October 22, 2018 that Respondent had issues with "failed drug screens and OWIs."

14. According to the Hospital's investigation, Respondent withdrew more fentanyl, morphine, oxycodone, and Percocet than her peers between January 1, 2018 and October 24, 2018.

15. The Hospital found several instances where Respondent administered a pain medication to a patient without documenting that a pain assessment had been completed and failing to document wasting medications after administering them.

16. Between January 23, 2018 and October 17, 2018, the Hospital discovered 33 instances in which Respondent waited more than one (1) hour after the administration of narcotics to patients before documenting the administration in their chart.

17. On March 15, 2019, the Department's investigator emailed Respondent's attorney informing him of this new complaint and asking if he represented her in the new matter. Respondent's attorney responded asking for a copy of the complaint so Respondent could respond. The investigator emailed a copy of the complaint to the attorney.

18. On April 25, 2019 and May 14, 2019, the investigator emailed Respondent's attorney again following up on the request for Respondent's response.

19. To date, no written response to the complaint has been received by the Department from Respondent. Respondent denies that she diverted any narcotics for her own use.

OTHER MATTERS

20. On July 12, 2018, Respondent was arrested for operating a vehicle while intoxicated with her two (2) minor children as passengers. Respondent's blood alcohol level tested at 0.138.

21. On August 14, 2018, Respondent was charged with three (3) misdemeanors: (1) OWI 2nd with a passenger less than 16 years old; (2) Operating with PAC 2nd with a passenger less than 16 years old; and, (3) Operating a Motor Vehicle While Revoked.

22. On February 26, 2019, Respondent pled no contest and was convicted in Winnebago County Circuit Court Case No. 2018CT000688 of OWI 2nd, a misdemeanor in violation of Wis. Stat. § 346.63(1)(a). Respondent was sentenced to 20 days in jail.

23. On August 15, 2018, Respondent was arrested for Operating While Revoked in Brown County.

24. On February 19, 2019, Respondent pled no contest and was convicted in Brown County Circuit Court Case No. 2018CT001459 of Operating While Revoked, a misdemeanor in violation of Wis. Stat. § 343.44(1)(b). Respondent was ordered to pay a fine.

25. Respondent failed to report these convictions to the Department.

26. In resolution of all these matters, 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, Respondent violated Wis. Admin. Code § N 7.03(1)(c), by failing to cooperate in a timely manner with the board's investigation of a

complaint filed against a license holder, after a request of the board. There is a rebuttable presumption that a credential holder who takes longer than 30 days to respond to a request of the board has failed to cooperate in a timely manner.

3. By the conduct described in the Findings of Fact, Respondent violated 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, including the date, place, and nature of the conviction or finding.

4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § N 7.03(6)(c), by departing from or failing to conform to the minimal standard of acceptable nursing practice that may create unnecessary risk or danger to a patient's life, health, or safety. Actual injury to a patient need not be established.

5. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § N 7.03(6)(p), by failing to observe the conditions, signs and symptoms of a patient, record them, or report significant changes to the appropriate person.

6. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § N 7.03(8)(e), by obtaining, possessing or attempting to obtain or possess a drug without lawful authority.

7. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b), (c) and (d).

ORDER

1. The attached Stipulation is accepted.
2. Respondent is REPRIMANDED.
3. The registered nursing license issued to Respondent (license number 177821-30), and her privilege to practice in Wisconsin pursuant to the Enhanced Nurse Licensure Compact, are LIMITED as follows:

- a. Within ninety (90) days of the date of this Order, Respondent shall at her own expense, successfully complete six (6) hours of education on the topic of medication administration offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses:

- i. Respondent 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.
- ii. 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.

- iii. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Respondent. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.
- iv. This limitation shall be removed from Respondent's license after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.

b. Within ninety (90) days of the date of this Order, Respondent shall, at her own expense, undergo and complete a fitness for practice evaluation with a pre-approved psychiatrist or psychologist (Evaluator) who has not provided treatment to Respondent and is experienced in evaluating whether a health care professional is fit for practice:

- i. Prior to evaluation, Respondent shall provide a copy of this Final Decision and Order to the Evaluator.
- ii. Respondent shall identify and provide the Evaluator with authorizations to communicate with all physicians, mental health professionals, and facilities at which Respondent has been treated or evaluated.
- iii. Within fifteen (15) days of completion of the evaluation, a written report regarding the results of the assessment shall be submitted to the Department Monitor at the address below. The report shall address whether Respondent suffers from any condition(s) that may interfere with her ability to practice safely and competently and, if so, shall provide any recommended limitations for safe and competent practice.
- iv. Respondent shall execute necessary documents authorizing the Department to obtain records of the evaluation, and to discuss Respondent and her case with the Evaluator. Respondent shall execute all releases necessary to permit disclosure of the final evaluation report to the Board or its designee. Certified copies of the final evaluation report shall be admissible in any future proceeding before the Board.
- v. If the Evaluator determines that Respondent is not fit for practice or is fit for practice with limitations, the Board or its designee may suspend Respondent's license until Respondent provides proof sufficient to convince the Board or its designee that Respondent is able to practice with reasonable skill and safety of patients and the public and does not suffer from any condition which prevents Respondent from practicing in that manner.
- vi. If the Evaluator determines that Respondent is fit for practice or is fit for practice with limitations, the Board or its designee may limit Respondent's license in a manner to address any concerns the Board or its designee has as a result of the conduct set out in the Findings of Fact and to address any

recommendations resulting from the evaluation, including, but not limited to:

1. Psychotherapy, at Respondent's expense, by a therapist approved by the Board or its designee, to address specific treatment goals, with quarterly reports to the Board by the therapist.
 2. Additional professional education in any identified areas of deficiency.
 3. A Board-approved nursing refresher course.
 4. Restrictions on the nature of practice, practice setting, or requirements for supervision of practice by a professional approved by the Board, with periodic reports to the Board by the supervisor.
- vii. Respondent is responsible for ensuring that the results of the evaluation are sent to the Department Monitor at the address below.
- viii. Respondent shall report to the Board any change in employment status, residence, address, or telephone number within five (5) days of the date of the change. This report shall not be considered formal change of address notification pursuant to Wis. Stat. § 440.11.
- c. Within ninety (90) days from the date of this Order, Respondent shall, at her own expense, undergo an Alcohol and other Drug Abuse (AODA) assessment with an evaluator pre-approved by the Board or its designee who has experience conducting these assessments.
- i. Prior to the assessment, Respondent shall provide a copy of this Order to the evaluator. Respondent shall provide the Department Monitor with written acknowledgment from the evaluator that a copy of this Order has been received by the evaluator. Such acknowledgment shall be provided to the Department Monitor prior to the assessment.
 - ii. Respondent shall provide and keep on file with the evaluator current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department to obtain a copy of the assessment. Copies of these releases shall immediately be filed with the Department Monitor.
 - iii. Respondent shall identify and provide the evaluator with authorizations to communicate with all physicians, mental health professionals, and facilities at which Respondent has been treated or evaluated.

iv. The Board, or its designee, may impose additional limitations upon Respondent's license based on the results of the assessment and/or the evaluator's recommendations.

v. Respondent shall comply with the evaluator's recommendations.

4. Pursuant to the Enhanced Nurse Licensure Compact, Respondent may not practice in a Compact state, other than Wisconsin, during the pendency of this limitation.

5. Within 120 days from the date of this Order, Respondent shall pay COSTS of these matters in the amount of \$2,075.00.

6. Approval of the Evaluator, continuing education courses, proof of successful course completion, submission of Evaluator's report, payment of costs (made payable to the Wisconsin Department of Safety and Professional Services), and any petitions for modification or termination of the Order 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

You may also submit this information online via DSPS' Monitoring Case Management System, here:
www.dspsmonitoring.wi.gov

7. In the event Respondent violates any term of this Order, Respondent's license (No. 177821-30), or Respondent's right to renew her license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent 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.

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

WISCONSIN BOARD OF NURSING

By: Peter Kallio, Jr.
A Member of the Board

7/9/2020
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ANDREA A. ATKINSON, R.N.,
RESPONDENT.

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STIPULATION

ORDER 0006894

Division of Legal Services and Compliance Case Nos. 17 NUR 006 and 18 NUR 666

Respondent Andrea A. Atkinson (formerly Olson), 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 two (2) pending investigations by the Division of Legal Services and Compliance. Respondent consents to the resolution of these investigations 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 Peter Culp.


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 matters 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 these investigations 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.


Andrea A. Atkinson, R.N., Respondent
License No. 177821-30

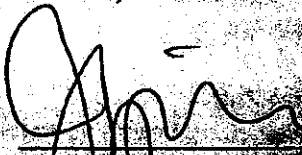
6/27/2020
Date

Peter J. Culp
Digitally signed by Peter J. Culp
DN: cn=Peter J. Culp, o=Culp Law Firm,
LLC, ou=email-peter@culp.law, c=US
Date: 2020.06.27 11:39:26 -0500

06/27/2020

Peter J. Culp, Attorney for Respondent
Culp Law Firm, LLC
6991 State Road 76
Neenah, WI 54956

Date


Julie Zimmer, Prosecuting Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707

6/29/2020
Date