

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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

MARK BUETTNER, R.N.,  
APPLICANT.

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ORDER GRANTING  
LIMITED LICENSE FOR A  
WISCONSIN LICENSE

**ORDER 0006912**

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

Mark Buettner, R.N.  
Gresham WI 54128-99056

Wisconsin Board of Nursing  
Department of Safety and Professional Services  
4822 Madison Yards Way  
P.O. Box 8935  
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the resolution of this renewal application. The Wisconsin Board of Nursing (Board) adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Mark Buettner (Applicant) filed an application to renew his Wisconsin Registered Nurse license (license number 123077-30).
2. Applicant resides in Wisconsin.
3. Information received in the application process reflects that Applicant has the following convictions:
  - a. On or about January 6, 1997 -- Operating While Intoxicated-1st, an ordinance violation.
    - i. Applicant drove into a ditch on slippery roads. Applicant refused the breathalyzer test. He was assessed a fine, ordered to complete an Alcohol and Other Drug Abuse (AODA) assessment, and completed an alcohol course.

- b. On or about May 9, 2000 – Resisting or obstructing an officer, as a party to a crime, a misdemeanor conviction.
  - i. Applicant states he was driving a car, ran off the road, and hit a pole. He called his wife and when the police arrived, he lied and stated his wife was driving. He paid a fine and served 40 days in jail.
  - ii. Applicant did not report this conviction to the Board.
- c. On or about October 10, 2002 – Operating While Intoxicated-2<sup>nd</sup>, a misdemeanor conviction.
  - i. Applicant was driving home after having a drink. He was observed driving erratically and swerving, he failed the Standard Field Sobriety Test (SFST), and has a BAC of .233. Applicant was assessed a fine, 30 days jail, completed an AODA assessment, and his driver's license was revoked for 16 months.
  - ii. Applicant did not report this conviction to the Board.
- d. On or about January 22, 2020 – Operating While Intoxicated-3<sup>rd</sup> with passenger <16 years old, a felony conviction.
  - i. Applicant took his son to a baseball game, where he had several beers. After leaving the game, Applicant was pulled over for cutting off a car which almost caused an accident. Applicant failed the SFST and had a BAC of .175. He was placed on probation for 2 years, his license was revoked for 28 months, he was ordered to have an IID installed in his vehicle for 28 months, pay a fine, complete an AODA assessment, and complete outpatient treatment.
  - ii. Applicant did not report this conviction to the Board.
- 4. Applicant's AODA Assessment found Irresponsible Use – Borderline.
- 5. Applicant's history of multiple OWI convictions over a period of 17 years, with increasing severity, - the most recent being a felony level offense due to Applicant driving with his minor child in the vehicle - along with his AODA finding of Irresponsible Use of Alcohol, Borderline Dependent, are acts which show the Applicant may be unfit or incompetent by reason of alcohol.
- 6. Applicant has been found guilty of a felony offense, a disqualifying event, and is ineligible to retain or renew his multistate licensure under the Nurse Licensure Compact.
- 7. In resolution of this matter, Applicant consents to the entry of the following Conclusions of Law and Order.

### CONCLUSIONS OF LAW

1. The Board 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. By the conduct described in the Findings of Fact, Applicant violated Wis. Stat. §§ 440.03(13)(am), 440.08(4), 441.07(1g)(b), 441.07(1g)(c), 441.07(1g)(d), and 441.51(3)(g)2., and Wis. Admin. Code §§ N 7.03(1)(h), N 7.03(6)(f), SPS 4.09(2), and NLC §§ 302(1)(b) and 407<sup>1</sup>.

3. Pursuant to Wis. Stat. § 441.07(1g)(c), the Board may deny or limit a license if Applicant committed acts which show the Registered Nurse, to be unfit or incompetent by reason of negligence, abuse of alcohol or other drugs, or mental incompetency.

4. Pursuant to Wis. Stat. §§ 441.07(1g)(b) and (d), the Board may deny or limit a license if Applicant violates any rule or statute or engages in unprofessional conduct.

5. Grounds for denying a license include being unable to practice professional nursing safely by reason of alcohol or other drugs pursuant to Wis. Admin. Code § N 7.03(6)(f) and failure 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 pursuant to Wis. Admin. Code § N 7.03(1)(h).

6. Pursuant to Wis. Stat. § 440.03(13)(am) and Wis. Admin. Code § SPS 4.09(2) a holder of any of the credentials set forth in s. SPS 4.07 who is convicted of a felony or misdemeanor in this state or elsewhere shall notify the department in writing of the date, place and nature of the conviction or finding within 48 hours after the entry of the judgment of conviction. Applicant failed to report his convictions to the Board.

7. The circumstances of Applicant's conviction history, which includes three OWI convictions, the most recent being a felony conviction where Applicant's child was in the car, shows the Registered Nurse unfit or incompetent by reason of alcohol or other substance abuse.

8. Pursuant to Wis. Stat. § 440.08(4), the Board may deny the Applicant's application for renewal of his Registered Nurse license to protect the public health, safety, or welfare.

9. Pursuant to Wis. Stat. § 441.51(3)(g)2., a nurse who fails to satisfy the multistate licensure requirements under Wis. Stat. § 441.51(3)(c) due to a disqualifying event shall be ineligible to retain or renew a multistate license. A felony conviction is a disqualifying event pursuant to NLC § 100(6) and Wis. Stat. § 441.51(3)(c)7.

### ORDER

1. The attached Stipulation is accepted.

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<sup>1</sup> The Interstate Commission of Nurse Licensure Compact Administrators, Final Rules Effective January 1, 2019, are available at: <https://www.ncsbn.org/nlcrules.htm>.

2. Limitations upon Applicant's Registered Nurse license are necessary to ensure that he is fit and competent to safely practice as a Registered Nurse.

3. Pursuant to the Nurse Licensure Compact, your felony conviction is a disqualifying event. *See* NLC § 100(6) (a disqualifying event includes a felony offense). Due to your felony conviction you have failed to satisfy the multistate licensure requirement under Wis. Stat. § 441.51(3)(c)7. Pursuant to Wis. Stat. § 441.51(3)(g)2., you are ineligible to retain or renew a multistate license, and your multistate license is hereby DEACTIVATED. Your Registered Nurse license is now a single state license, limited to practice in the State of Wisconsin. This requirement is **PERMANENT** and may not be modified while the limited license is in effect or at any time thereafter unless your felony conviction has been set aside or you have been pardoned for the felony conviction.

4. Applicant's ability to practice as a Registered Nurse in the state of Wisconsin 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 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 twenty-eight (28) 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 of Safety and Professional Services Monitor (Department Monitor).
- v. All positive test results are presumed valid and may result in automatic suspension of licensure by the Board or the Board's designee. A positive test is a violation of this order.
- vi. 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.
- vii. 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.
- viii. It is Applicant's responsibility to arrange for quarterly written reports to be submitted to the Department Monitor from his supervisor at each setting in which Applicant practiced nursing in the previous quarter. These reports shall be submitted as directed by the Department Monitor, and shall assess Applicant's work performance, and shall include the number of hours of active nursing practice worked during that quarter. If a report indicates poor performance, the Board may institute additional limitations on Applicant's nursing license, in its discretion.

- ix. Applicant MAY work as a nurse or other health care provider in a setting in which Applicant has access to controlled substances.
- x. Applicant shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of change.
- xi. Applicant shall commit no new violations of law and shall report all law enforcement contacts leading to arrest, charge or conviction, including DWI/OWI and municipal/ordinance violations, to the Department Monitor within 48 hours of any such event, including any convictions resulting from pending charges.

5. Applicant may petition the Board on an annual basis for modification of the terms of this Order, however no such petition for modification shall occur earlier than one (1) year from the date of this Order. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Applicant shall not have a right to any further hearings or proceedings on the denial.

6. After two (2) consecutive years of successful compliance, including at least six hundred (600) hours of approved nursing practice each year, 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.

7. Any requests, petitions, reports and other information required by this Order shall be mailed, e-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](mailto:DSPSMonitoring@wisconsin.gov)

You may also submit this information online via DSPS' Monitoring Case management System, here: <https://dpsmonitoring.wi.gov>

8. In the event Applicant violates any term of this Order, Applicant's license, or Applicant's right to renew his 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.

9. Applicant shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision, and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

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

WISCONSIN BOARD OF NURSING

By: Peter Kallio  
A Member of the Board

07/24/2020  
Date



STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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

MARK BUETTNER, R.N.,  
APPLICANT.

STIPULATION

ORDER 0006912

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

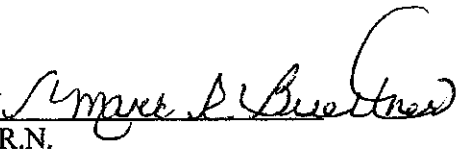
1. Applicant filed an application to renew a Registered Nurse license.
2. Information received by the Board reflects a basis for denial of the renewal of licensure.
3. Based upon the information of record, the Board agrees to issue, and Applicant agrees to accept, an Order granting a renewal of the Registered Nurse license, 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 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 (Compact) and Applicant's multi-state license and/or privilege, if any, will be subject to all terms and conditions of the Compact.

Mark R. Buettner

  
Mark Buettner, R.N.  
Gresham WI 54128-99056  
License no. 123077-30

06/26/2020

Date



A Member of the Board of Nursing  
Department of Safety and Professional Services  
P.O. Box 8935  
Madison, WI 53708-8935

07/24/2020

Date