

## 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 LICENSED PRACTICAL	:	
NURSE CREDENTIAL	:	
	:	ORDER GRANTING
	:	LIMITED LICENSE
JENNIFER IRVING, L.P.N.,	:	
APPLICANT.	:	<b>ORDER 0007007</b>

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

Jennifer Irving, L.P.N.  
West Bend WI 53095

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. On or about April 26, 2019, Jennifer Irving (Applicant) filed an application to renew her Wisconsin Licensed Practical Nurse credential (license number 311889-31).

2. Applicant resides in Wisconsin.

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

- A. On or about January 2, 2001 – Retail Theft, an ordinance violation.
- B. On or about July 2, 2008 – Theft, an ordinance violation.
- C. On or about October 27, 2014 – Disorderly Conduct, an ordinance violation.
- D. On or about July 14, 2015 – Possession of Paraphernalia, an ordinance violation.

- E. On or about April 6, 2015 – Disorderly Conduct, an ordinance violation.
  - F. On or about April 16, 2015 – Disorderly Conduct, an ordinance violation.
  - G. On or about March 31, 2017 – Possession of THC, an ordinance violation.
  - H. On or about June 27, 2018 – Criminal Trespass to Dwelling, a misdemeanor conviction.
  - I. On or about June 27, 2018 – Criminal Trespass to Dwelling, a misdemeanor conviction.
  - J. On or about June 27, 2018 – Resisting/Obstructing an Officer, a misdemeanor conviction.
4. Applicant did not timely report her convictions to the Board.
5. Applicants convictions raised concerns regarding Applicant's mental wellness and history of substance use. On May 22, 2020, the Board sent Applicant a letter requesting an alcohol and other drug abuse (AODA) and fitness to practice (FTP) assessment. The AODA and FTP assessments found:
- A. Applicant admitted to substance use, which was heaviest prior to 2017. Applicant was found to have been self-medicating her feelings, especially with marijuana. Applicant reported she has not used any illicit substances since 2017.
  - B. Testing showed symptoms of PTSD, depression, and anxiety.
  - C. Applicant seems to be in a good place emotionally and mentally to engage in the practice of practical nursing.
  - D. Applicant has issues to work on. The assessor recommended Applicant attend mental health sessions regularly, abstain from all substances, and be given random drug screens. Updated reports on her progress and drug screen results may be submitted to the Board.

6. 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. Applicant's conviction history, AODA, and FTP assessment demonstrates Applicant engaged in acts which show the Licensed Practical Nurse, to be unfit or incompetent by reason of negligence, abuse of alcohol or other drugs, or mental incompetency. As a result, pursuant to Wis. Stat. § 441.07(1g)(c), the Board may deny or limit a nursing credential.

3. 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.

4. Applicant engaged in unprofessional conduct by failing to report her convictions to the Board within forty-eight (48) hours of entry of the judgment of conviction as required by Wis. Stat. §§ 440.03(13)(am), 441.07(1g)(b) & (d), and Wis. Admin. Code § SPS 4.09(2) and § N 7.03(1)(h).

5. Pursuant to Wis. Stat. § 440.08(4), the Board may deny the Applicant's application for renewal of her Licensed Practical Nurse credential to protect the public health, safety, or welfare.

### ORDER

NOW, THEREFORE, IT IS ORDERED that Jennifer Irving's application to renew her LICENSED PRACTICAL NURSE CREDENTIAL (311889-31) is GRANTED subject to the following LIMITATIONS, TERMS AND CONDITIONS:

### CONDITIONS AND LIMITATIONS

#### Practice Limitations

- A.1. Applicant shall provide a copy of this Order, all previous Orders and any future Order to her employer's human resources department and direct supervisor at all settings where Applicant works as a Licensed Practical Nurse or care giver or provides health care, currently or in the future, during the duration of the limited license. Applicant shall provide the Department and Safety and Professional Services Monitor (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.
- A.2. It is Applicant's responsibility to arrange for written reports from her direct supervisor to be provided to the Department Monitor on a quarterly basis. These reports shall assess Applicant's work performance, attendance and include the number of hours of active nursing practice worked during that quarter.
- A.3. Applicant shall not work in a home health care, hospice, pool nursing, assisted living, agency-setting, or as a nurse in a correctional setting.

- A.4. Applicant may work as provider in a setting in which Applicant has access to controlled substances. If Treater subsequently recommends restrictions on such access, the Board or its designee may impose such restrictions.
- A.5. Pursuant to Nurse Licensure Compact regulations, Applicant's nursing practice is limited to Wisconsin during the pendency of this Order.

**Mental Health Treatment Required**

- A.6. Within thirty (30) days of the date of this Order, Applicant shall provide proof to the Department Monitor that Applicant is continuing mental health treatment with M.J. Owens, MS, LPC, or another mental health treatment provider (Treater), whose credential is in good standing, and approved by the Board. Applicant shall participate in, cooperate with, and follow all treatment recommended by Treater.
- A.7. Applicant shall immediately provide Treater with a copy of this Order and all other subsequent orders.
- A.8. Applicant's treatment shall include individual and/or group therapy sessions at a frequency to be determined by Treater, but not less than once a week. After three (3) consecutive months of therapy from the date of this Order, Treater may reassess the frequency of therapy sessions and provide a recommendation for modification as Treater sees fit. Therapy may end only upon a determination by the Board or its designee after receiving a petition for modification, including a recommendation from Treater expressly approving termination of therapy.
- A.9. Treater shall be responsible for coordinating Applicant's rehabilitation, alcohol/drug monitoring and treatment program as required under the term of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor. If Treater is unable or unwilling to serve as Treater, Applicant shall immediately seek approval of a successor Treater by the Board or its designee.
- A.10. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Applicant's progress in the mental health treatment sessions, abstinence from all substances, and drug and alcohol testing. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

**Releases**

- A.11. Applicant shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Division to: (a) obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Applicant's

treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

Sobriety

- A.12. Applicant shall abstain from all personal use of alcohol.
- A.13. 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 prescribing the controlled substance. Applicant shall, at the time the controlled substance is prescribed, 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, Treater and the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor. Applicant shall disclose the name and address of such practitioner to the Department Monitor within five (5) business days of receipt of a prescription for controlled substances.
- A.14. Applicant shall provide the Department Monitor with a list of over-the-counter medications and drugs that they may take from time to time. Applicant shall abstain from all use of over-the-counter medications or other substances (including but not limited to natural substances such as poppy seeds or any products containing alcohol) which may mask consumption of controlled substances or of alcohol, create false positive screening results, or otherwise interfere with Applicant's test results, treatment or rehabilitation, unless ordered by a physician and approved by Treater, in which case the drug must be reported as described in paragraph A.15. It is Applicant's responsibility to educate himself or herself about the medications and substances which may violate this paragraph, and to avoid those medications and substances.
- A.15. Applicant shall report to the Department Monitor all prescription medications and drugs taken by Applicant. Reports must be received within twenty-four (24) hours of administration, fill, or refill of the medication(s) or drug(s), and shall identify the person(s) who prescribed, dispensed, administered, or ordered said medication(s) or drug(s). 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.

Drug and Alcohol Screens

- A.16. Within 30 days of the date of this Order, Applicant shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department Monitor (Approved Program).
- A.17. At the time Applicant enrolled 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:

- (a) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
  - (b) 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.
- A.18. The Approved Program shall require the testing of specimens at a frequency of not less than twenty-eight (28) times per year (one of which may be a hair test at the Board's discretion), for at least the first year of the Order. Thereafter the Board may adjust the frequency of testing on its own initiative at any time, and/or the Applicant may petition for a modification of the frequency per paragraph B.7. below.
- A.19. 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.
- A.20. In addition to any requirement of the Approved Program, the Board or its designee may require Applicant to do any or all of the following: (a) submit additional urine specimens; (b) submit blood, hair or breath specimens (c) furnish any specimen in a directly witnessed manner.
- A.21. All confirmed positive test results shall be presumed to be valid. Applicant must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- A.22. The Approved Program shall submit information and reports to the Department Monitor as directed.

#### MISCELLANEOUS

##### Department Monitor

- B.1. 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's Monitoring Case management System, here: <https://dpsmonitoring.wi.gov>.

Required Reporting by Applicant

- B.2. Applicant is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Applicant shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Applicant shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Applicant.
- B.3. Applicant shall submit self-reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. The reports shall include a summary of Respondent's compliance with the terms and conditions of the Order in the previous quarter, Applicant's current address, and home telephone number.
- B.4. 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.
- B.5. Applicant shall report to the Department Monitor any change of employment status, residence, address or telephone number within five (5) days of the date of a change. This report shall be provided in addition to formal change of address notification pursuant to Wis. Stat. § 440.11.

Change of Treater or Approved Program by Board

- B.6. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Applicant continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification of Limitations or Termination of Order

- B.7. Applicant may petition the Board on an annual basis for modification of the terms of this Order, however, no petition for modification shall be considered sooner than 1 (one) year from the date of this Order. Any petition for modification shall be accompanied by a written recommendation from Applicant's Treater expressly supporting the specific modification(s) sought. 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.
- B.8. Applicant may petition the Board for termination of this Order after demonstrating two (2) consecutive years of continuous, successful compliance with the terms of the Order,

including at least 600 hours of approved nursing practice each year. The Board may, on its own motion, grant full Wisconsin licensure at any time.

Costs of Compliance

- B.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.

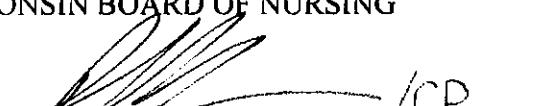
Additional Discipline

- B.10. In the event that Applicant violates any term of this Order, Applicant's license may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Applicant has provided proof, which is determined by the Board or its designee to be sufficient, that Applicant is in compliance 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.

Dated at Madison, Wisconsin this 14th day of September, 2020.

WISCONSIN BOARD OF NURSING

By:



/CP.  
A Member of the Board

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF APPLICATION FOR	:	
RENEWAL OF A LICENSED PRACTICAL	:	
NURSE CREDENTIAL	:	
	:	
	:	STIPULATION
JENNIFER IRVING, L.P.N.,	:	
APPLICANT.	:	<b>ORDER UUU/007</b>

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

1. Applicant filed an application to renew a Licensed Practical 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 Licensed Practical 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.

Jennifer Irving  
Jennifer Irving, L.P.N.  
West Bend WI 53095  
License no. 311889-31

9/11/20  
Date

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

Date

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.

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Jennifer Irving, L.P.N.  
West Bend WI 53095  
License no. 311889-31

Date



/CP.

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09/14/2020

Date

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