

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

MELISSA L. KITTREDGE, R.N.,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0007117

Division of Legal Services and Compliance Case No. 20 NUR 315

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

Melissa L. Kittredge, R.N.
Waukesha, WI 53051

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. Respondent Melissa L. Kittredge, R.N. (DOB: XX/XX/1974), is licensed in the state of Wisconsin as a registered nurse, having license number 159775-30, first issued on July 3, 2007, and current through February 28, 2022. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is located in Waukesha, Wisconsin 53051.

2. Upon information and belief, Respondent's current address is located in Milwaukee, Wisconsin 53202.¹

¹On August 15, 2020, Respondent informed a Department investigator that her current address is located in Milwaukee, Wisconsin 53202. Respondent has not formally updated her address with the Department.

3. At all times relevant to this proceeding, Respondent was employed as a registered nurse at home care and medical staffing agency (Agency), located in Pewaukee, Wisconsin.

4. On June 13, 2020, Respondent was working as an in-home care nurse at the home of Patient A, with her scheduled shift being from 7:00 p.m. on June 13 to 7:00 a.m. on June 14, 2020.

5. At approximately 9:00 p.m. on June 13, a family member of Patient A came to the home and found Respondent sleeping. The family member immediately contacted the Agency.

6. The Agency's Director of Nursing (DON) and the Agency's co-owner reported to Patient A's home.

7. When the DON arrived at Patient A's home, Respondent was sitting in her car crying and smelled of alcohol. Respondent admitted to the DON that she had consumed alcohol prior to arriving at Patient A's home and that she was drunk. The DON took Respondent's keys and entered the home to care for Patient A.

8. When the Agency's co-owner arrived at Patient A's home, Respondent appeared intoxicated, smelled like alcohol, and admitted to having consumed drinks prior to arriving at Patient A's home. The Agency's co-owner drove Respondent home.

9. Respondent was terminated by the Agency on June 14, 2020.

10. On September 29, 2020, Respondent submitted a statement to the Department in which she admitted she had been drinking before her shift on June 13, 2020, and admitted that she fell asleep while on duty. Respondent further admitted that she has an issue with alcohol and has been receiving treatment since this incident including inpatient alcohol and alcohol and other drug abuse (AODA) treatment and intensive outpatient treatment.

Convictions and Pending Charges

11. In February 2019, Respondent was issued a citation for violation of a local ordinance by operating while intoxicated (OWI) 1st.

12. On March 12, 2019, Respondent was charged in Jefferson County case number 19CT144 with one (1) count of Ignition Interlock Device Tampering/Failure to Install/Violation Court Order, an unclassified misdemeanor in violation of Wis. Stat. § 347.413(1). On March 3, 2020, Respondent was convicted of the aforementioned offense.

13. On January 8, 2020, Respondent was charged in Milwaukee County case number 20CF107 with one (1) count of Battery or Threat to Judge, Prosecutor, or Law Enforcement Office, a class H felony in violation of Wis. Stat. § 940.203(2); one (1) count of Criminal Damage to Property, a class A misdemeanor in violation of Wis. Stat. § 943.01(1); one (1) count of Disorderly Conduct, a class B misdemeanor in violation of Wis. Stat. § 947.01(1); and one (1) count of

Resisting or Obstructing an Officer, a class A misdemeanor in violation of Wis. Stat. § 946.46(1). The incident that led to the aforementioned charges occurred on January 5, 2020. Respondent was released on signature bond, the conditions of which included that Respondent maintain absolute sobriety. That case is still pending.

14. On May 12, 2020, Respondent was charged in Waukesha County case number 20CF602 with one (1) count of Bail Jumping, a class H felony in violation of Wis. Stat. § 946.49(1)(b). The probable cause statement filed in support of the aforementioned charge describes Respondent being found intoxicated on May 8, 2020, in violation of the absolute sobriety condition imposed in Milwaukee County case number 20CF107. That case is still pending.

15. When Respondent renewed her nursing license online on February 25, 2020, she checked “No” to the question “Since your last renewal or initial licensure (if this is your first renewal), do you have any pending charges, and/or have you violated any federal or state laws, or any local ordinances (does not include minor traffic violations that do not involve alcohol or drugs, such as speeding, running stoplights, and seat belt violations)?” Respondent’s last renewal was on February 27, 2018. Respondent’s “No” response on February 25, 2020, was inaccurate for the following reasons:

- a. Respondent had received a citation in February 2019 for an OWI 1st (a local ordinance violation), which qualifies as any local ordinance involving alcohol or drugs.
- b. Respondent had been charged on March 12, 2019, in Jefferson County case number 19CT144, with one (1) count of Ignition Interlock Device Tampering/Failure to Install/Violation Court Order, an unclassified misdemeanor in violation of Wis. Stat. § 347.413(1).
- c. Respondent had been charged on January 8, 2020, in Milwaukee County case number 20CF107, with a felony and three (3) misdemeanors.

16. Respondent did not report the March 3, 2020, conviction from Jefferson County case number 19CT144 to the Department within 48 hours after the entry of judgment of conviction.

17. In resolution of this matter, 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(6)(a), by failing to perform nursing with reasonable skill and safety.

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § N 7.03(6)(c), by failing to conform to the minimal standards of acceptable nursing practice that may create unnecessary risk or danger to a patient's life, health, or safety.

4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § N 7.03(6)(e), by practicing nursing while under the influence of alcohol, illicit drugs, or while impaired by the use of legitimately prescribed pharmacological agents or medications.

5. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § N 7.03(6)(f), by being unable to practice safely by reason of alcohol or other substance use.

6. 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 judgment of conviction.

7. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § N 7.03(5)(e), by committing fraud, deceit, or material omission in obtaining a license or certification or in the renewal of the license or certification.

8. 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. This Final Decision and Order (Order) is effective on the date of its signing.

3. The registered nursing license issued to Respondent, (license number 159775-30) is **SUSPENDED** as follows:

SUSPENSION

A.1. The license of Respondent (license number 159775-30), to practice as a nurse in the state of Wisconsin is **SUSPENDED** for an indefinite period.

A.2. Pursuant to the Enhanced Nurse Licensure Compact (Compact), Respondent may not practice in another Compact State, other than Wisconsin, while their license is encumbered by any term or restriction of this Order.

STAY OF SUSPENSION

B.1. The suspension shall not be stayed for the first three (3) months, but any time after three (3) months the suspension may be stayed upon Respondent petitioning the Board and providing proof, which is determined by the Board or its designee to be sufficient, that Respondent is in compliance with the provisions of Sections C and D of this Order for the most recent three (3) consecutive months.

- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in violation of any provision of this Order. The Board or its designee may, in conjunction with any removal of any stay, prohibit the Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
- (a) Mailing to Respondent's last-known address provided to the Department of Safety and Professional Services pursuant to Wis. Stat. § 440.11; or
 - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Board or its designee may reinstate the stay if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.

CONDITIONS AND LIMITATIONS

Treatment Required

- C.1. Respondent shall enter into, and shall continue, drug and alcohol treatment with a treater acceptable to the Board or its designee (Treater). Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Respondent shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation and treatment as required under the terms 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 (See D.1., below). If Treater is unable or unwilling to serve as required by this Order, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only with the approval of the Board or its designee, after receiving a petition for modification as required by D.5., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in drug and alcohol treatment.

Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collection sites, current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department of Safety and Professional Services, Division of Legal Services and Compliance to: (a) obtain all specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation with Treater, treatment facilities and personnel, laboratories and collection sites. Copies of these releases shall immediately be filed with the Department Monitor.

AA/NA Meetings

- C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholics Anonymous meetings or an approved equivalent program for recovering professionals, at the frequency recommended by Treater, but no less than twice per week. Attendance of Respondent at such meetings shall be verified by the speaker or chair and reported quarterly to Treater and the Department Monitor.

Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. Respondent 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. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent 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 Respondent'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. Respondent 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.
- C.10. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that they may take from time to time. Respondent shall abstain from all use of over-the-counter medications, products, 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 alcohol, create false positive screening results, or otherwise interfere with Respondent'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 C.11. It is Respondent's responsibility to educate herself about the medications and substances which may violate this paragraph, and to avoid those medications and substances.

- C.11. Respondent shall report to Treater and the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within twenty-four (24) hours of administration, fill or refill 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, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.

Drug and Alcohol Screens

- C.12. Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department (Approved Program).
- C.13. At the time Respondent enrolls in the Approved Program, Respondent 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 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, nail, hair, saliva or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.14. 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, and/or Respondent may petition for modification of testing frequency per paragraph D.5.
- C.15. If any urine, blood, sweat, nail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or alcohol, Respondent 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.
- C.16. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to do any or all of the following: (a) submit additional specimens; (b) furnish any specimen in a directly witnessed manner; or (c) submit specimens on a more frequent basis.
- C.17. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- C.18. The Approved Program shall submit information and reports to the Department Monitor as directed.

Practice Limitations

- C.19. Respondent may work as a nurse or other health care provider in a setting in which Respondent has access to controlled substances. If Treater subsequently recommends restrictions on such access, the Board or its designee may impose such restrictions.
- C.20. Respondent shall practice only under the direct supervision of a licensed nurse or other licensed health care professional approved by the Board or its designee, who has received a copy of this Order.
- C.21. Respondent shall practice only in a work setting pre-approved by the Board or its designee. Requests for preapproval must be accompanied by a current job description, name and contact information of the direct supervisor, and written acknowledgment from the employer that a copy of this Order has been received and that the restrictions will be accommodated.
- C.22. Respondent may not work in a home health care, hospice, pool nursing, assisted living, agency, or as a nurse in a correctional setting.
- C.23. Prior to commencing practice, Respondent shall provide a copy of this Order, and all other subsequent orders, immediately to supervisory personnel at all settings where Respondent works as a nurse or care giver or provides health care, currently or in the future.
- C.24. It is Respondent's responsibility to arrange for quarterly written reports to be submitted to the Department Monitor from his or her supervisor at each setting in which Respondent practiced nursing in the previous quarter. These reports shall be submitted as directed by the Department Monitor, and shall assess Respondent'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 appropriate corrective limitations, or may revoke a stay of the suspension, in its discretion.
- C.25. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change. This report shall not be considered formal change of address notification pursuant to Wis. Stat. § 440.11.

MISCELLANEOUS

Department Monitor

- D.1. Any requests, petitions, reports, payment of costs, 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

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

<https://dpsmonitoring.wi.gov>

Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent 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. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent.
- D.3. Respondent 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, Respondent's current address and home telephone number. The self-report shall not be considered formal change of address notification pursuant to Wis. Stat. § 440.11.

Change of Treater or Approved Program by Board

- D.4. 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 Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification of Limitations or Termination of Order

- D.5. Respondent 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 the initial stay of the suspension. Any petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications 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 Respondent shall not have a right to any further hearings or proceedings on the denial.
- D.6. Respondent may petition the Board for termination of this Order after demonstrating five (5) years of successful compliance with all terms, 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

- D.7. Respondent 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.

Costs of Proceeding


- D.8. Respondent shall pay costs of \$1,435.00 to the Department of Safety and Professional Services, within 120 days of this Order. Payment should be directed to the attention of the Department Monitor at the address in paragraph D.1., above.

Additional Discipline

- D.9. In addition to any other action authorized by this Order or law, the Board, in its discretion, may impose additional limitations or pursue separate disciplinary action for violation of any term of this Order.

WISCONSIN BOARD OF NURSING

By:



A Member of the Board

12/10/2020

Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MELISSA L. KITTREDGE, R.N.,
RESPONDENT.

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STIPULATION

ORDER 0007117

Division of Legal Services and Compliance Case No. 20 NUR 315

Respondent Melissa L. Kittredge, 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 a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation 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.
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 matter 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 this investigation may appear before the Board in open or closed session, without the presence of Respondent, 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.


Melissa L. Kittredge, R.N., Respondent
Milwaukee, WI 53202
License No. 15977530

Nov 21, 2020
Date


Carley Peich Kiesling, Attorney

11/24/2020
Date

Carley Peich Kiesling, Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison WI 53707-7190

Date