

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

ERIN N. LEITZ, R.N.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

ORDER 0007120

Division of Legal Services and Compliance Case No. 19 NUR 012

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

Erin N. Leitz, R.N.
Oshkosh, WI 54904

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 Erin N. Leitz, R.N. (DOB: XX/XX/1975) is licensed in the state of Wisconsin as a registered nurse, having license number 154531-30, first issued on September 14, 2006 and valid through February 29, 2020. Respondent filed an application for renewal of this license in February 2020. The Board has not yet acted on the renewal application. Pursuant to Wis. Stat. § 227.51(2), Respondent's license remains active until the Board acts upon the renewal. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is located in Oshkosh, Wisconsin 54904.

2. On February 7, 2019, a criminal complaint was filed in Winnebago County Circuit Court charging Respondent with OWI (2nd with a passenger under 16 years old), a misdemeanor

in violation of Wis. Stat. § 346.63(1)(a), and Operate with Restricted Controlled Substance (2nd with a passenger under 16 years old), a misdemeanor in violation of Wis. Stat. § 346.63(1)(am).

3. The charges in paragraph two (2) were the result of Respondent, on September 2, 2018, operating a motor vehicle with two (2) minor children inside, driving her vehicle into a corn field, and being found unconscious. The Winnebago County Sheriff's office was contacted and arrived on the scene shortly thereafter. Respondent was arrested for operating under the influence and taken into custody.

4. On September 2, 2018, in connection with her arrest, Respondent agreed to submit to an evidentiary chemical test of her blood. The results of such blood test were negative for ethanol but were positive for benzoylecgonine and amphetamine.

5. Benzoylecgonine is the major metabolite of cocaine.

6. Respondent contended that she was not under the influence of alcohol but rather suffered a seizure causing the accident.

7. On September 17, 2019, Respondent was convicted in Winnebago County Circuit Court case number 2019CT76, of one (1) count of OWI (2nd with a passenger under 16 years old), a misdemeanor, in violation of Wis. Stat. § 346.63(1)(a). The charge of Operate with Restricted Controlled Substance was dismissed.

8. One of Respondent's sentencing requirements as a result of the conviction in paragraph seven (7) was that she participate in an intoxicated driver assessment and safety plan.

9. Respondent did not report this conviction to the Department within 48 hours of entry of the judgment of conviction.

10. Respondent sought drug and/or alcohol treatment on multiple occasions in 2018 and 2019, with multiple treaters. On June 15, 2020, Respondent provided the Department a partial copy of an alcohol and other drug abuse (AODA) assessment from November 9, 2018. Respondent made a claim included on the assessment that her positive drug screen for cocaine was related to a drink she had at a restaurant and denied cocaine use.

11. From March 2018 through March 2019, Respondent was prescribed amphetamines.

12. A January 7, 2019 discharge summary advised that Respondent presented with alcohol use disorder, moderate, that Respondent was discharged from treatment per Respondent's request, and that the prognosis was fair to poor without ongoing services, support, and community engagement.

13. In June 2019, Respondent was diagnosed with adjustment disorder with anxiety and alcohol abuse, uncomplicated.

14. A September 17, 2019 assessment summary diagnosed Respondent with alcohol dependency, in remission.

15. 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 committed acts which show Respondent to be unfit or incompetent to practice nursing by reason of negligence, abuse of alcohol or other drugs or mental incompetency within the meaning of Wis. Stat. § 441.07(1g)(c).

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 misdemeanor in writing within 48 hours after the entry of the judgment of conviction.

4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § N 7.03(6)(f), as a result of Respondent's inability to practice safely by reason of alcohol or other substance use.

5. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § N 7.03(2), by violating or aiding and abetting a violation of any law substantially related to the practice of nursing or being convicted of any crime substantially related to the practice of nursing.

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-d).

ORDER

1. The attached Stipulation is accepted.

2. Respondent is REPRIMANDED.

3. The registered nurse license issued to Respondent (license no. 154531-30) to practice nursing in the state of Wisconsin, and her privilege to practice pursuant to the Enhanced Nurse Licensure Compact (Compact), is LIMITED as follows:

a. For a period of at least two (2) years from the date of this Order:

- i. Respondent 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 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 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. Respondent shall abstain from all personal use of alcohol.
- iv. 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, the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
- v. Respondent shall report to the Department Monitor all prescription medications and drugs taken by Respondent. 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, Respondent

shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.

- vi. Respondent 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 Respondent'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 3(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. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- viii. If any urine, blood, sweat, fingernail, 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.
- ix. Respondent shall practice only in a work setting pre-approved by the Board or its designee.
- x. Respondent shall provide his or her nursing employer with a copy of this Order before engaging in any nursing employment. Respondent 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. Pursuant to the Compact, Respondent may not practice in a Compact State, other than Wisconsin, while her license is encumbered by any term or restriction of this Order.

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

6. After the first year from the date of this Order, Respondent 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 Respondent 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. Within 120 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,715.00.

8. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) 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


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

9. In the event Respondent violates any term of this Order, Respondent's license (no. 154531-30), 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. The Board or its designee may terminate the suspension if provided with sufficient information that Respondent 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:


A Member of the Board

12/10/2020

Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ERIN N. LEITZ, R.N.,
RESPONDENT.

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STIPULATION

ORDER 0007120

Division of Legal Services and Compliance Case No. 19 NUR 012

Respondent Erin N. Leitz, 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.


Erin N. Leitz, R.N., Respondent
Oshkosh, WI 54904
License No. 154531-30

11-16-2020
Date


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

11/16/20
Date