

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF APPLICATION FOR
RENEWAL OF A LICENSED PRACTICAL
NURSE CREDENTIAL

:
:
:
:
:
:

ORDER GRANTING
LIMITED LICENSE

TAMARA BUCKHOLZ, L.P.N.,
APPLICANT.

ORDER 0007359

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

Tamara Buckholz
Wild Rose WI 54984

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 24, 2019, Tamara Buckholz (Applicant) filed an application to renew her Wisconsin Licensed Practical Nurse credential (#319900-31).
2. Applicant resides in Wisconsin.
3. Information received in the application process reflects that Applicant has the following convictions:
 - A. On or about May 20, 2019 – Possess Open Intoxicant in MV-Driver, an ordinance violation.
 - i. Applicant states her ex had worked on her car and she believes he must have left the open intoxicant in the back of her car and must have also smoked marijuana.
 - ii. The police report states Applicant was pulled over for failing to display a front license plate. Police smelled the odor of THC coming from the

vehicle. A search of Applicant's car found marijuana shake, prescription pills not in prescription bottles (but for which the Applicant did have a valid prescription), and a ¾ full beer that was cold to the touch, under the center console.

iii. Applicant paid a fine.

B. On or about January 9, 2020 – Refuse to Take Test for Intoxication After Arrest, an ordinance violation.

i. Applicant's refusal was found "not reasonable," and she was ordered to have an Ignition Interlock Device (IID) for twenty-four (24) months, her driver's license was revoked for twenty-four (24) months, and Applicant was ordered to complete an Alcohol and Other Drug Abuse (AODA) Assessment.

C. On or about August 19, 2020 – Operating with a Prohibited Alcohol Concentration (PAC) 2nd, a misdemeanor conviction.

i. Applicant states her (now ex) boyfriend had been "going crazy on [her]," so she decided to drive to a friend's house to have a couple drinks. Applicant drove home, her boyfriend "flipped out on [her]" and told her to leave. Applicant drove and pulled over on the side of the road and got stuck in the snow.

ii. The police report states Applicant's vehicle was stuck in the snow facing the wrong way to traffic on the highway. Police smelled the odor of intoxicants while Applicant spoke, and observed her eyes were bloodshot and watery. Applicant stated that after work, she stopped at a bar for one (1) drink before heading home. Applicant failed the Standard Field Sobriety Tests (SFST) and blew a Preliminary Breath Test (PBT) of .151. Applicant was placed on probation for two (2) years, her driver's license was revoked for twelve (12) months, she had an IID for twelve (12) months and completed an AODA assessment which found irresponsible use of alcohol.

iii. Applicant did not report this conviction to the Board and stated she did not know she needed to report her conviction.

4. Applicant also has the following pending charges:

A. Offense date on or about December 20, 2019 – Operating While Intoxicated (OWI) 3rd, a misdemeanor charge.

B. Offense date on or about December 20, 2019 – Bail Jumping, a misdemeanor charge.

C. Offense date on or about December 20, 2019 – PAC 3rd, a misdemeanor charge.

D. Offense date on or about December 20, 2019 – Operating with Restricted Controlled Substances 3rd, a misdemeanor charge.

i. The police report states that police observed Applicant had a strong odor of intoxicants on her breath, that her speech was slurred and difficult to

understand, her eyes were bloodshot and glassy, and Applicant was unsteady on her feet while walking or standing. Applicant failed the SFST and blew a PBT of .206. Applicant's Blood Alcohol Content (BAC) was .198.

- E. Offense date on or about July 22, 2020 – OWI 4th, a felony charge.
- F. Offense date on or about July 22, 2020 – PAC 4th, a felony charge.
- G. Offense date on or about July 22, 2020 – IID Tamper/Fail Install, a misdemeanor charge.
- H. Offense date on or about July 22, 2020 – Operate While Revoked (Rev. due to alcohol/refusal), a misdemeanor charge.
- I. Offense date on or about July 22, 2020 – Bail Jumping, a misdemeanor charge.
 - i. The police report states that police observed Applicant emitted the odor of intoxicants coming from her person. The police report states Applicant admitted she was driving home from a bar where she met a friend for some food. Applicant performed poorly on the SFST and blew a PBT of .110. Applicant stated that her life was over, and she stated multiple times that she was going to kill herself.
- J. Offense date on or about March 11, 2021 – Bail Jumping, a misdemeanor charge.
- K. Offense date on or about March 11, 2021 – Operate While Revoked (Rev. due to alcohol/refusal), a misdemeanor charge.

5. Applicant states she had been in a domestic abuse situation, which resulted in both emotional and physical injury. At the time of her offenses, Applicant states she had been drinking at home with no intention to drive. Applicant drove due to threats and abuse. Applicant states she has now separated herself from the abusive boyfriend and learned to never drink and drive.

A. Applicant's statements diverge greatly from the police reports.

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. Pursuant to Wis. Stat. § 441.07(1g)(b), the Board may deny an initial license or revoke, limit, suspend, or deny the renewal of a license of a registered nurse for one or more violations of this subchapter or any rule adopted by the Board under the authority of this subchapter.

3. Pursuant to Wis. Stat. § 441.07(1g)(c), the Board may deny an initial license or revoke, limit, suspend, or deny the renewal of a license due to acts which show the registered nurse, nurse-midwife or licensed practical 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)(d), the Board may deny an initial license or revoke, limit, suspend, or deny the renewal of a license of a registered nurse for misconduct or unprofessional conduct.

5. Pursuant to Wis. Stat. § 440.08(4), the Board may deny a renewal if it is necessary to protect the public health, safety, or welfare.

6. The Board may deny an application for licensure if Applicant is unable to practice safely by reason of alcohol or other substance use pursuant to Wis. Admin. Code § N 7.03(6)(f).

7. The Board may deny an application for licensure if Applicant is unable to practice safely by reason of psychological impairment or mental disorder pursuant to Wis. Admin. Code § N 7.03(6)(g).

8. By the conduct described in the Findings of Fact, Applicant violated Wis. Stat. §§ 441.07(1g)(b),(c), and (d), and Wis. Admin. Code § N 7.03(6)(f), by committing acts which show Applicant to be unfit or incompetent by reason of abuse of alcohol or other drugs; and Applicant is unable to practice safely by reason of alcohol or other substance abuse.

9. By the conduct described in the Findings of Fact, Applicant violated Wis. Stat. §§ 441.07(1g)(b),(c), and (d), and Wis. Admin. Code § N 7.03(6)(g), and demonstrated Applicant is unable to practice safely by reason of psychological impairment or mental disorder and necessitate denial of renewal for full and unrestricted licensure.

10. By the conduct described in the Findings of Fact, the Board finds it necessary to deny full unlimited renewal of Applicant's credential to protect the public health, safety, or welfare, pursuant to Wis. Stat. § 440.08(4).

11. Pursuant to Wis. Stat. §§ 440.03(13)(am), 441.07(1g)(b) & 441.07(1g)(d), and Wis. Admin. Code §§ SPS 4.09(2) and N 7.03(1)(h), Applicant has engaged in unprofessional conduct for failing to notify the board of her OWI 2nd misdemeanor conviction in writing within forty eight (48) hours after the entry of the judgment of conviction.

12. As a result of the above conduct, Applicant is subject to limitations on her license pursuant to Wis. Stat. §§ 440.08(4), 441.07(1g)(b), (c), and (d), and Wis. Admin. Code §§ N 7.03(6)(f) and (g).

ORDER

1. The attached Stipulation is accepted.

2. Limitations upon Applicant's Licensed Practical Nurse credential are necessary to ensure that she is fit and competent to practice as a Licensed Practical Nurse.

3. The Registered Nurse license (#319900-31) issued to Applicant to practice nursing in the state of Wisconsin, and her privilege to practice in Wisconsin pursuant to Enhanced Nurse Licensure Compact, are further LIMITED as follows:

- A. Within ninety (90) days of the date of this Order, Applicant shall, at her own expense, undergo a fitness to practice evaluation with a Board pre-approved psychiatrist or psychologist (evaluator) experienced in evaluating health care practitioners' fitness for duty:
 - i. The evaluation must be completed by a Board-approved Clinical Psychologist or Psychiatrist, preapproved by the Board or its designee. The evaluator shall be licensed in Wisconsin, with an unencumbered license. The evaluator shall have never treated nor had a professional or personal relationship with Applicant and must have experience evaluating and treating health care professionals.
 - ii. Within fifteen (15) days of the completion of the assessment, a written report regarding the results of the assessment shall be submitted to the Department of Safety and Professional Services Monitor (Department Monitor) at the address below. The report shall address whether Applicant suffers from any condition(s) that may interfere with her ability to practice safely and, if so, shall provide any recommended limitations for safe practice.
- B. Prior to evaluation, Applicant shall provide a copy of this Order Granting Limited License to the evaluator.
- C. Applicant shall execute necessary documents authorizing the Board or its designee to obtain records of evaluation, and to discuss Applicant and her case with the evaluator. Applicant 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.
- D. Applicant shall identify and provide the evaluator with authorizations to communicate with all physicians, mental health professionals, and facilities at which Applicant has been treated or evaluated.
- E. Applicant shall comply with any and all reasonable requests by the evaluator for purposes of scheduling and completing the evaluation, including additional testing the examiner deems helpful. Any lack of reasonable and timely cooperation, as determined by the examiner, may constitute a violation of an order of the Board.

- F. Applicant is responsible for timely payment of the costs of the examination. Payment shall be made directly to the evaluator.
- G. Applicant must provide proof sufficient to convince the Board that Applicant is able to practice with reasonable skill and safety of patients and the public and does not suffer from any condition which prevents Applicant from practicing in that manner.
- H. If the Board determines that Applicant is not fit to practice, the Board may suspend Applicant's license until Applicant provides proof sufficient to convince the Board that Applicant is able to practice with reasonable skill and safety of patients and the public and does not suffer from any condition which prevents Applicant from practicing in that manner. In the alternative, the Board may limit Applicant's license in a manner to address any concerns the Board has as a result of the conduct set out in the Findings of Fact and to address any recommendations resulting from the assessment, including, but not limited to:
 - i. Psychotherapy, at Applicant'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.
 - ii. Additional professional education in any identified areas of deficiency.
 - iii. Restrictions on the nature of practice or practice setting or requirements for supervision of practice, by a professional approved by the Board, with periodic reports to the Board by the supervisor.
- I. If the Board determines that Applicant is fit to practice, the Board may nonetheless limit Applicant's license in a manner to address any concerns the Board 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:
 - i. Psychotherapy, at Applicant'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.
 - ii. Additional professional education in any identified areas of deficiency.
 - iii. Restrictions on the nature of practice or practice setting or requirements for supervision of practice, by a professional approved by the Board, with quarterly reports to the Board by the supervisor.
- J. If Applicant believes that the Board's refusal to end the suspension is inappropriate or that any limitation imposed or maintained by the Board or

its designee under paragraph 3.H. is inappropriate, Applicant may seek a Class I hearing pursuant to Wis. Stat. § 227.01(3)(a), in which the burden shall be on Applicant to show that the Board's or designee's decision is arbitrary or capricious. The suspension or limitations on Applicant's license shall remain in effect until there is a final decision in Applicant's favor on the issue.

4. Applicant's ability to practice as a Licensed Practical Nurse 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. Within thirty (30) days of the date of this Order, Applicant shall enroll and participate in a drug and alcohol monitoring program which is approved by the Board or its designee (Approved Program).
 - 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 (one of which may be a hair test at the Board's discretion), 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. 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 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, Applicant shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.
- vi. Applicant shall provide the Department Monitor with a list of over-the-counter medications and drugs that he 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 Applicant'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 4.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. Applicant 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, 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.

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

- ix. Within thirty (30) days of the date of this Order, Applicant shall provide proof to the Department Monitor that Applicant is continuing AODA counseling with an AODA counseling 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.
- x. Applicant shall immediately provide Treater with a copy of this Order and all other subsequent orders.

- xi. 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 month. 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.
- xii. Treater 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.
- xiii. 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.

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

- i. 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.
- ii. It is Applicant's responsibility to arrange for quarterly written reports to be submitted to the Department Monitor from her 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.
- iii. Applicant may **not** work as a nurse or other health care provider in a setting in which Applicant has access to controlled substances. This restriction may be lifted only upon explicit recommendation by the Treater.

- iv. 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.
- v. 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. Any such petition shall be accompanied by a written recommendation from Applicant's Treater. 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) 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. Pursuant to the Compact, Applicant may not practice in a Compact state, other than Wisconsin, while her license is encumbered by any limitation or restriction imposed by this order.

8. 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

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

9. In the event Applicant violates any term of this Order, Applicant's license, or Applicant'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 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.

10. 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.

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

WISCONSIN BOARD OF NURSING

By:

Jennifer Eklof
A Member of the Board

05/04/2021

Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF APPLICATION FOR :
RENEWAL OF A LICENSED PRACTICAL :
NURSE CREDENTIAL :

TAMARA BUCKHOLZ, L.P.N., :
APPLICANT. :

STIPULATION

ORDER 0007359

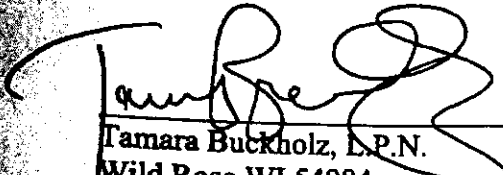
It is stipulated between Applicant and the Wisconsin Board of Nursing (Board) as follows:

1. Applicant filed an application to renew a Licensed Practical Nurse credential.
2. Information received by the Board reflects a basis for denial of the renewal application.
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 credential, 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.



Tamara Buckholz, L.P.N.
Wild Rose WI 54984
License no. 319900-31

5/3/21

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.

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Tamara Buckholz, L.P.N.
Wild Rose WI 54984
License no. 319900-31

Date

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

05/04/2021
Date