

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 A :
REGISTERED NURSE CREDENTIAL :

DEREK GRADY,
APPLICANT. :

ORDER GRANTING
LIMITED LICENSE

ORDER 0007433

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

Derek Grady
Madison, WI 53704

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 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 December 16, 2020, Derek Grady (Applicant) filed an application (#744626) for a Wisconsin Registered Nurse license.
2. Applicant has the following convictions:
 - A. Around 1986 – Operating While Intoxicated (OWI), for which the offense severity is unknown.
 - B. Around 1992 – OWI, for which the offense severity is unknown.
 - C. On or about June 30, 1993 – Operating After Revocation, a misdemeanor conviction.
 - i. Applicant continued to drive after his license had been revoked due to his OWIs.
 - D. On or about May 19, 1995 – Operating After Revocation, a misdemeanor conviction.

- i. Applicant continued to drive after his license had been revoked due to his OWIs.
- E. On or about September 22, 1996 – Operating After Revocation (3rd), a misdemeanor conviction.
 - i. Applicant continued to drive after his license had been revoked due to his OWIs.
- F. On or about January 28, 1997 – Bail Jump, a misdemeanor conviction.
 - i. Applicant had been charged with possession of marijuana (this charge was dismissed) and was released on a signature bond. Applicant's above OAR 3rd conviction was a violation of his bond.
- G. On or about January 28, 1997 – Bail Jump, a misdemeanor conviction.
 - i. Applicant had been charged with possession of marijuana (this charge was dismissed) and was released on a signature bond. Applicant was required to appear in court as scheduled by the court. Applicant failed to appear at a required hearing, which was a violation of his bond.
- H. On or about March 3, 1997 – Bail Jump, a misdemeanor conviction.
 - i. Applicant states these related to his failure to appear in court. After finally making an initial appearance in Court, Applicant was released on a cash bond, that required he make all future court appearances. Applicant failed to appear and did not communicate his whereabouts to his attorney.
- I. On or about April 2, 1997 – Operating After Revocation, for which the offense severity is unknown.
 - i. Applicant continued to drive after his license had been revoked due to his OWIs.
- J. Around 1997 – OWI, for which the offense severity is unknown.
 - i. Applicant states he was ordered to complete and Alcohol and Other Drug Abuse (AODA) assessment and AODA treatment.
- K. On or about October 1, 2019 – Operating After Revocation, a misdemeanor conviction.
- L. On or about October 1, 2019 – Operate Without a Valid Driver's License, a misdemeanor conviction.
- M. On or about January 11, 2000 – Fail to Report to County Jail (<10 days), a misdemeanor conviction.
 - i. Applicant was placed on probation for 12 months.

- N. On or about December 15, 2020 – Operating After Revocation, an ordinance violation.
- O. On or about December 15, 2020 – Operate without a Valid Driver's License, an ordinance violation.
 - i. Applicant states his automotive registration was suspended due to an unpaid parking ticket for parking on the wrong side of the street. Additionally, he was not aware that his driver's license was up for renewal that year and he failed to renew it. Applicant paid fines.
- P. Applicant's convictions demonstrate a consistent disregard for following the law as well as concerns regarding alcohol impairment.

3. Applicant also has the following pending charges from offenses alleged to have occurred on or about October 4, 2019:

- A. OWI 3rd, modified with an Alcohol Fine Enhancer, a misdemeanor offense.
- B. Operating with a Prohibited Alcohol Concentration 3rd, modified with an Alcohol Fine Enhancer, a misdemeanor offense.
 - i. Applicant states he attended his niece's wedding and made the poor decision to drive himself back to his hotel after drinking. Applicant was pulled over for having an expired registration. Upon contact with the Applicant, police observed a strong odor of intoxicants emanating from Applicant. Applicant admitted drinking "a lot" (three (3) beers, six (6) shots, and Applicant had a flask filled with whiskey on his passenger seat). Applicant failed Horizontal Gaze Nystagmus test of the Standard Field Sobriety Test. Applicant was unable to complete the Walk and Turn or One Leg Stand tests for his own safety. Applicant blew a Preliminary Breath Test of .185.

4. Applicant also has the following pending charge from an offense alleged to have occurred on or about October 15, 2020:

- A. Bail Jumping, a misdemeanor offense.
 - i. Applicant states he missed a court date due to a mix up between his attorney and himself.
 - ii. The criminal complaint states that Applicant was released on a signature bond for his pending OWI 3rd charges. The court sent Applicant a notice of a future hearing date at Applicant's last known address. Applicant did not appear at the hearing.

5. Applicant provided the following information relating to his relationship with alcohol:

- A. Applicant states when he was younger, he struggled with his identity and had a mental health crisis. He used alcohol as an unhealthy coping mechanism and to escape from the world. Applicant states his court ordered

AODA assessment for his 1997 OWI saved his life. Through counseling he learned to accept himself, and once he did that, he no longer needed the crutch of alcohol.

- B. Applicant provided conflicting personal statements regarding whether Applicant continues to consume alcoholic beverages. On June 4, 2021, Applicant provided clarification and states that he has been completely sober since the night of his OWI 3rd offense (October 2019).

6. Given Applicant's history of alcohol related offenses, the Board requested Applicant undergo an AODA assessment. Applicant submitted an assessment dated May 10, 2021.

- A. The assessment evaluator concluded that Applicant does not meet the DSM-5 criteria for an alcohol use disorder at this time and no treatment was recommended. However, the evaluator did recommend occasional urine drug and alcohol screens to verify Applicant's ongoing abstinence.

7. In resolution of the 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. 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).

6. 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 show Applicant may be unable to practice safely by reason of alcohol or other substance abuse.

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

ORDER

1. The attached Stipulation is accepted.
2. Limitations upon Applicant's Registered Nurse credential are necessary to ensure that he is fit and competent to practice as a Registered Nurse.
3. Applicant's ability to practice as a Registered Nurse in the state of Wisconsin, and his privilege to practice pursuant to the Enhanced Nurse Licensure Compact (Compact), is LIMITED for a period of at least one (1) year as follows:
 - A. For a period of at least one (1) year from the date of this Order Applicant shall comply with the following requirement relating to drug and alcohol monitoring:
 - 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 Department (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 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. 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.

- ix. Applicant shall show a copy of this Order to his current and any future employer. Applicant shall provide the Department of Safety and Professional Services Monitor (Department Monitor) with written acknowledgement from each employer that a copy of this Order has been received. Such acknowledgement 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.
- x. 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.
- xi. Applicant **may** work as a nurse or other health care provider in a setting in which Applicant has access to controlled substances.
- xii. 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 current pending charges.**
- xiii. 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 suspected violations of any of the terms and conditions of this Order by Applicant.

4. 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 six (6) months from the date of this Order. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Applicant shall not have a right to any further hearings or proceedings on the denial.

5. After one (1) year of successful compliance under this Order, including at least six hundred (600) hours of approved nursing practice during one (1) year, the Applicant may petition the Board for full, unrestricted licensure. The Board may grant or deny any petition, in its discretion, or may modify this Order as it sees fit.

6. Pursuant to the Compact, Applicant may not practice in a Compact state, other than Wisconsin, while his license is encumbered by any limitation or restriction imposed by this order.

7. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor
Division of Legal Services and Compliance

Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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

8. In the event Applicant violates any term of this Order, Applicant's license, or Applicant's right to renew his license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing. The Board or its designee may terminate the suspension if provided with sufficient information that Applicant is in compliance with the Order and that it is appropriate for the suspension to be terminated. Whether to terminate the suspension shall be wholly in the discretion of the Board or its designee. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

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

WISCONSIN BOARD OF NURSING

By: Rosemary Delatawski *RL*
A Member of the Board

06/14/2021

Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF APPLICATION FOR A :
REGISTERED NURSE CREDENTIAL :

DEREK GRADY,
APPLICANT. :

STIPULATION

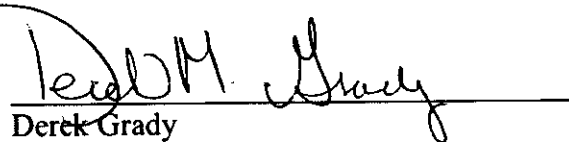
ORDER 0007433

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

1. Applicant filed an application for a Registered Nurse license.
2. Information received by the Board reflects a basis for denial of licensure.
3. Based upon the information of record, the Board agrees to issue, and Applicant agrees to accept, an Order granting a Registered Nurse license, subject to the terms and conditions set forth in the attached Order adopting the Stipulation.
4. Applicant understands that by signing this Stipulation, Applicant voluntarily and knowingly waives the following rights:
 - the right to request a hearing related to the denial of the application;
 - the right to confront and cross-examine the witnesses against Applicant;
 - the right to call witnesses on Applicant's behalf and to compel their attendance by subpoena;
 - the right to testify on Applicant's own behalf;
 - the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
 - the right to petition for rehearing; and
 - all other applicable rights afforded to Applicant under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
5. Applicant is aware of Applicant's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.
6. Applicant agrees to the adoption of the attached Order Granting Limited License by the Board. The parties to the Stipulation consent to the entry of the attached Order Granting Limited License without further notice, appearance, or consent of the parties.
7. Applicant waives all rights to any appeal of the Board's Order, as adopted in the form as attached.

8. Applicant is informed that the Order Granting Limited License is a public record and will be published in accordance with standard procedure.

9. Applicant is informed that the Order Granting Limited License is an encumbrance as defined by the Enhanced Nurse Licensure Compact (Compact) and Applicant's multi-state license and/or privilege, if any, will be subject to all terms and conditions of the Compact.


Derek Grady
Madison, WI 53704
Application no. 744626

6/9/2021
Date

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

06/14/2021
Date