

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

JESSICA HERNANDEZ,
APPLICANT.

ORDER 0007622

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

Jessica Hernandez
Watertown WI 53098

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. Jessica Hernandez (Applicant) was initially granted her Wisconsin Licensed Practical Nurse credential (#323209-31) on August 1, 2018.
2. Applicant resides in Wisconsin.
3. On or about April 26, 2021, Applicant filed an application to renew her Wisconsin Licensed Practical Nurse credential (#323209-31).
4. Applicant has the following pending charge, in Waukesha County case 20CF295, for an incident(s) alleged to have occurred on or about June 10, 2019:
 - A. Possession of Narcotic Drugs, a class I felony, in violation of Wis. Stat. § 961.41(3g)(am).
 - i. The criminal complaint alleges that while working as a Licensed Practical Nurse, Applicant pocketed a new fentanyl patch and

attempted to instead place an old patch on a patient. After this incident was reported, the facility did an internal investigation and found irregularities in regard to two (2) patients' pain medication (including narcotics) while Applicant was working.

- ii. Applicant has entered a plea of 'Not Guilty' to this charge.
- iii. According to the Wisconsin Circuit Court Access record, the next scheduled court activity for this matter is a Plea and Sentencing Hearing on October 27, 2021.¹
- iv. Applicant has provided a statement to the Board that Applicant continues to maintain her innocence of any wrongdoing. Applicant states she has maintained continual full-time employment as a Licensed Practical Nurse with satisfactory performance reviews.

5. 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).

ORDER

- 1. The attached Stipulation is accepted.
- 2. 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 Applicant shall comply with the following requirement relating to drug and alcohol monitoring:
 - i. Within ten (10) 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

¹ Available at <https://wcca.wicourts.gov/caseDetail.html?caseNo=2020CF000295&countyNo=67&mode=details> (9.28.2021).

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 2.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, Applicant shall comply with the following practice limitations:

- 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. 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.
- iii. 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 forty-eight (48) hours of any such event, including any convictions resulting from pending charges.

3. Conclusion of Waukesha County case 20CF295.

- A. If Applicant's pending charge in the above referenced matter is dismissed, Applicant shall provide evidence satisfactory to the Board of the dismissal. Upon receipt, the Board will issue an Order rescinding this limited license and returning Applicant's credential to full unrestricted status.
- B. If Applicant's pending charge results in a conviction of any offense, Applicant shall submit a copy of the Judgement of Conviction (JOC) within forty-eight (48) hours of entry of JOC. This Order will return to Board for review of the conviction, at which point the Board may add or modify terms of this order as necessary to protect the public health, safety, or welfare (including but not limited to suspending Applicant's credential pending the submission of additional information, such as an Alcohol and Other Drug Abuse (AODA) assessment, fitness to practice assessment, the addition of findings of unprofessional conduct as appropriate, adding requirements or limitations to Applicant's practice, increasing the length of the order, etc.).

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 one (1) year 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 two (2) consecutive 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.

6. 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.

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 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.

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 Dolatowski *RLC*
A Member of the Board

10/04/2021
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

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

STIPULATION

JESSICA HERNANDEZ, L.P.N., :
APPLICANT. :

ORDER 0007622

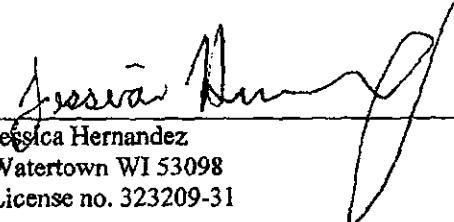
It is stipulated between Applicant and the Wisconsin Board of Nursing (Board) as follows:

1. Applicant filed an application to renew Licensed Practical Nurse credential #323209-31.
2. Information received by the Board has raised concerns about Applicant's ability to practice nursing in conformity to minimal standards of acceptable practice.
3. Based upon the information of record, the Board agrees to issue, and Applicant agrees to accept, an Order granting renewal of a 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.



Jessica Hernandez
Watertown WI 53098
License no. 323209-31

10/1/21

Date

Rosemary Dolatowski *R20*
A Member of the Board of Nursing
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

10/04/2021

Date