

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

EVELYN B. HARRELL, R.N.,
RESPONDENT.

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:
:

FINAL DECISION AND ORDER

ORDER 0008200

Division of Legal Services and Compliance Case No. 22 NUR 149

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

Evelyn B. Harrell, R.N.
Sussex, WI 53089

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. Evelyn B. Harrell, R.N. (Respondent), (Year of Birth 1972) is licensed in the state of Wisconsin as a registered nurse with multistate privileges pursuant to the Nurse Licensure Compact (Compact), having license number 128557-30, first issued on February 17, 1998, and current through February 28, 2022.¹ Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Sussex, Wisconsin 53089.

2. At all times relevant to this proceeding, Respondent was employed as a registered nurse through a nursing staffing agency, located in Brookfield, Wisconsin.

¹ Respondent's license remains active while her application for renewal remains pending. See Wis. Stat. § 440.08(3).

3. In July 2007, Respondent was convicted of an OWI 1st. On March 31, 2021, in Menomonee Falls Municipal Court Case No. BF891781-2, Respondent was convicted of one count of OWI-2nd, a misdemeanor, in violation of Wis. Stat. § 346.63(1)(a).

4. On February 2, 2022, in Waukesha County Circuit Court Case No. 21CT499, Respondent was convicted of one count of OWI-3rd with an Alcohol Fine Enhancer, a misdemeanor, in violation of Wis. Stat. §§ 346.63(1)(a) and 346.65(2)(g)3. Respondent's sentence was withheld, and she was placed on probation for two years. Conditions of her probation include 200 days conditional jail time, maintain absolute sobriety, complete an Alcohol and Other Drug Abuse (AODA) assessment, fine, driver's license revoked, and an Ignition Interlock Device (IID) required for 32 months.

5. On April 22, 2021, Respondent underwent an AODA assessment with an assessment of Severe Alcohol Use Disorder. Respondent is in compliance with recommended treatment, and is attending community support groups.

6. Respondent failed to timely report her OWI-2nd and OWI-3rd convictions to the Board.

7. In resolution of this matter, Respondent 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 into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent failed to notify the Board of a criminal conviction within 48 hours of conviction within the meaning of Wis. Admin. Code § N 7.03(1)(h).

3. By the conduct described in the Findings of Fact, Respondent was convicted of a crime substantially related to the practice of nursing within the meaning of Wis. Admin. Code § N 7.03(2).

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

5. A nurse who possesses a multistate license from Wisconsin is ineligible to retain or renew the multistate license should the nurse incur a disqualifying event after the effective date of the Compact pursuant to Wis. Stat. § 441.51(3)(g). The effective date of the Compact is July 20, 2017.

6. Having been convicted of a misdemeanor offense related to the practice of nursing is a disqualifying event pursuant to Wis. Stat. § 441.51(3)(c)8.

7. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b), (c), and (d), and Wis. Admin. Code. § N 7.03.

ORDER

1. The attached Stipulation is accepted.
2. Respondent is REPRIMANDED.
3. Respondent's multistate license is deactivated and will not be renewed. Respondent retains a single-state registered nurse license, and the right to apply to renew such license.
4. Respondent's license to practice as a registered nurse (license number 128557-30), and her right to apply to renew such license, are LIMITED as follows:
 - a. Within ninety (90) days of the date of this Order, Respondent shall at her own expense, successfully complete the Wisconsin Nurse Practice Act course provided/offered by the National Council of State Boards of Nursing (NSCBN).
 - b. Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
5. Respondent's license to practice as a registered nurse in the state of Wisconsin (license number 128557-30), and her right to apply to renew such license, are further 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 (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. 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. 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.
 - v. Respondent shall report to the Department Monitor all prescription medications and drugs taken by Respondent. 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, 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. 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 3(a)v. 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.

- 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 and any subsequent order modifying 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 and any subsequent order modifying 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 and any subsequent order modifying this Order for employment current as of the date of this Order.

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

7. 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.

8. Within 120 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$449.00.

9. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted 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) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dpsmonitoring.wi.gov>.

10. In the event Respondent violates any term of this Order, Respondent's license (number 128557-30), or Respondent's right to apply 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.

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

WISCONSIN BOARD OF NURSING

By: Robert Weirman TW-CCHP
A Member of the Board

10/13/2022
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

EVELYN B. HARRELL, R.N.,
RESPONDENT.

STIPULATION

ORDER 0008200

Division of Legal Services and Compliance Case No. 22 NUR 149

Evelyn B. Harrell, R.N. (Respondent), 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. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.

9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Evelyn B. Harrell, R.N., Respondent
Sussex, WI 53089
License No. 128557-30

10/5/2022
Date



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

10/5/2022
Date