

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 REGISTERED NURSE :
CREDENTIAL :

DAWONG S. MILLER, R.N., :
APPLICANT. :

ORDER GRANTING
LIMITED LICENSE FOR A
WISCONSIN LICENSE

ORDER 0008235

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

Dawong S. Miller, R.N.
Milwaukee WI 53203

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. Dawong S. Miller (Applicant) filed an application to renew his Wisconsin Registered Nurse license (license number 244878-30).
2. Applicant resides in Wisconsin.
3. Information received in the application process reflects that Applicant has the following conviction and violation record:
 - a. On or about October 15, 2020 – Operating While Intoxicated (OWI) 1st, an ordinance violation.
 - i. Applicant states he imbibed at a party in his honor in the Wisconsin Dells. Applicant then attempted to drive himself home and was involved in a single car accident.
 - ii. According to police reports, Applicant admitted to drinking prior to driving and exhibited several clues of intoxication during Standard Field Sobriety Tests (SFST). Upon arrest, Applicant blew a

Preliminary Breath Test (PBT) of .18. Applicant paid a fine, his driver's license was suspended for eight (8) months, and he completed an Alcohol and Other Drug Abuse (AODA) assessment.

iii. Applicant's AODA assessment found Irresponsible Use of Alcohol and required completion of the Group Dynamics course.

- b. On or about June 08, 2022 – OWI 2nd, a misdemeanor conviction.
- i. Applicant states he had a few drinks late at night and decided to drive home. Applicant states that due to a pre-existing medical condition from 2017, it takes him “a while longer than the average person to feel the impact of impairment resulting from drinking”.
 - ii. According to the police reports, Applicant struck another vehicle causing an accident. Officers contacted Applicant, observing bloodshot eyes and an inability to keep his balance when walking. Applicant told officers he was driving the striking vehicle. Applicant exhibited signs of intoxication during the SFST and blew a PBT of .27.
 - iii. Applicant was ordered to complete twelve (12) months' probation, with eight (8) days conditional jail, and ninety (90) days jail imposed and stayed. His driver's license was revoked for twelve (12) months, an Ignition Interlock Device was ordered for twelve (12) months, he completed an AODA assessment, and ordered to pay a fine.
 - iv. Applicant's AODA assessment found Irresponsible Use of Alcohol – Borderline (IUB) and required two to three (2-3) months of outpatient treatment, which he successfully completed on December 28, 2021.
 - v. Applicant's outpatient treatment discharge summary, dated December 30, 2021, diagnosed Applicant with Alcohol Use Disorder, Mild.
 1. Applicant met goals of reducing consumption of alcohol, learning to deal with stress constructively, and using his support network. Applicant achieved moderate improvement, and no continued care was recommended, other than relying on his personal support group.

4. Additional information regarding Applicant's AODA history was received in the application process:

- a. Conflicting information was received regarding Applicant's sobriety dates, and he was asked to clarify.
 - i. Applicant's initial personal statement indicated he was sober from May 19, 2020, until receiving his OWI 2nd on September 25, 2021.
 - ii. AODA treatment records indicated Applicant told providers he was sober only from February 2021 to July 2021 while experiencing a hospitalization and illness for gangrene related to ulcerative colitis. Applicant indicated that his surgeon told him he only had a few days

to live. AODA treatment records also indicated that Applicant told providers he used alcohol about two (2) days per week.

iii. In Applicant's clarification dated August 12, 2022, he maintained he was sober from May 19, 2020, until receiving his OWI 2nd on September 25, 2021. Applicant states that on September 25, 2021, he relapsed as a result of a culmination of health, school, and work stressors which caused him to defer to alcohol for relief.

iv. Applicant further clarified that after receiving his OWI 2nd, he would occasionally have a glass of wine at night from September 26, 2021, to October 27, 2021, stating he drank wine no more than four (4) times during this period.

b. Applicant's current sobriety date is October 28, 2021, the day he began outpatient treatment.

5. Less than one (1) year after receiving the OWI 1st disposition (October 15, 2020), Applicant committed his second OWI offense (September 25, 2021).

6. Applicant's OWI 2nd occurred at three (3) a.m., involved striking another vehicle, and involved Applicant drinking alcohol in excess despite recently suffering a serious medical issue and hospitalization which he stated had him on the verge of death; a serious contraindication to the use of alcohol. Further, Applicant continued to drink after the OWI 2nd occurred until he began outpatient treatment.

7. Applicant has experienced one (1) relapse after more than one (1) year of established sobriety. To date, Applicant has re-established less than one (1) year of sobriety.

8. Nursing is a stressful profession, especially during the pandemic.

9. 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. The Board may deny or limit a license if Applicant committed a violation of Wis. Stat. § 441.07(1g).

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

4. Pursuant to Wis. Stat. § 440.08(4), the Board may deny the Applicant's application for renewal of Applicant's Registered Nurse credential to protect the public health, safety, or welfare.

5. By the conduct described in the Findings of Fact, limitations on Applicant's license are necessary to protect the public health, safety, or welfare, pursuant to Wis. Stat. § 440.08(4).

6. As a result of the above conduct, Applicant is subject to limitations on Applicant's license pursuant to Wis. Stat. §§ 440.08(4), 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 Applicant 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 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 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 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. 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.

- b. For a period of at least two (2) years from the date of this Order Applicant shall comply with the following Alcohol and Other Drug Abuse (AODA) support group and counseling:
 - i. 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.
 - ii. Applicant shall immediately provide Treater with a copy of this Order and all other subsequent orders.
 - iii. Applicant shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Division to:
 - 1. obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and
 - 2. discuss the progress of Applicant's treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.
 - iv. 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.
 - v. 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.

- vi. 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.
 - vii. Applicant shall attend Alcoholics Anonymous meetings, Narcotics Anonymous meetings, or other Board-approved equivalent program for recovering professionals, no less than twice per week. Applicant shall provide proof of attendance on a quarterly basis to the Department Monitor.
- c. 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. It is Applicant's responsibility to arrange for quarterly written reports to be submitted to the Department Monitor from his 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** work as a nurse or other health care provider in a setting in which Applicant has access to controlled substances. If Treater subsequently recommends restrictions on such access, the Board or its designee may impose such restrictions.
 - 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 forty-eight (48) hours of any such event, including any convictions resulting from pending charges.

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. Any petition for modification shall be accompanied by a written recommendation from Applicant's Treater expressly supporting the specific modifications sought. 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 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: Dr. Rosalyn McFarland DNP, RN, APNP, FNP-BC /ALC
A Member of the Board

11/04/2022
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

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

DAWONG S. MILLER, R.N., :
APPLICANT. :

STIPULATION

ORDER 0008235

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

1. Applicant filed an application to renew a Registered Nurse license.
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 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.


Dawong S. Miller, R.N.
Milwaukee WI 53203
License no. 244878-30

10/31/22
Date

Dr. Rosalyn McFarland DNP, RN, APNP, FNP-BC /ALC
A Member of the Board of Nursing
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

11/04/2022
Date