

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE ARCHITECTS SECTION
OF THE WISCONSIN EXAMINING BOARD OF ARCHITECTS,
LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS,
DESIGNERS, PROFESSIONAL LAND SURVEYORS, AND
REGISTERED INTERIOR DESIGNERS

IN THE MATTER OF APPLICATION FOR
RENEWAL OF AN
ARCHITECT REGISTRATION

ALLAN BIRSCHBACH,
APPLICANT.

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ORDER GRANTING
LIMITED LICENSE

ORDER 0008317

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

Allan Birschbach
Appleton WI 54912-1216

Architects Section
Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers,
Designers, Professional Land Surveyors,
and Registered Interior Designers
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 Architects Section of the Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, Professional Land Surveyors, and Registered Interior Designers (Section) adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. On or about August 1, 2022, Allan Birschbach (DOB 03-22-1951) (Applicant) filed an application to renew his Wisconsin Architect registration (4501-5).
2. Information on file establishes the following:
 - A. On or about January 4, 2006, Applicant was convicted of Operating While Intoxicated - 1st offense, an ordinance violation.

B. On or about June 30, 2008, Applicant was convicted of Operating with a Prohibited Alcohol Concentration .08 or More – 2nd offense, a misdemeanor, in Calumet County, Wisconsin 08 CT 01.

- i. According to a Judgment of Conviction, Applicant was sentenced to twelve (12) days jail, a driver's license revocation, a fine, and an AODA assessment.
- ii. According to Department of Transportation (DOT) documents, Applicant completed the AODA assessment on 01/11/08. The assessment found suspected alcohol dependency, with a recurrent drinking pattern and moderately advanced alcohol chronicity. Applicant was recommended to have Intensive Outpatient (IOP) treatment and Aftercare.
- iii. According to treatment records, Applicant completed IOP and Aftercare on or about 05/07/08 and at discharge, was diagnosed with alcohol abuse, unspecified. It was recommended that he maintain absolute sobriety, continue his self-care regimen, and continue in previously established mental health treatment.

C. On or about September 28, 2022, Applicant was convicted of Possession of an Illegally Obtained Prescription, a misdemeanor, in Calumet County, Wisconsin 21 CF 101.

- i. According to a Criminal Complaint, on December 21, 2020, Applicant called 911 after finding his roommate deceased inside their home from a suspected overdose. The deceased had track marks on his arms and drug paraphernalia was found near his body. During the investigation, Applicant told police that he had his own room upstairs and he didn't want to be in trouble for what he had there. Applicant told police he was concerned about losing his architect's license, and admitted to using weed, meth, and coke. Applicant claimed to not be addicted to these drugs, and said he used the drugs to enhance sex. Applicant stated he only gave drugs to his roommate when it was related to having sex, but they had not really had sex in the past year. Applicant struggled to quantify how often he used, but said it went in streaks, and that's what made him different. Applicant stated that he and the deceased would use coke and meth as part of their relationship.
- ii. Police searched Applicant's bedroom and found suspected PCP, suspected methamphetamine, suspected cocaine, suspected THC, unidentified pills, numerous items of drug paraphernalia including cut straws, pipes, and needles, and an unlabeled pill bottle with forty-nine (49) oval peach pills identified as amphetamine and dextroamphetamine 30 mg (Adderall).

iii. According to Applicant's personal statement, in June of 2017, his doctor stopped prescribing Adderall to him due to a heart issue. Applicant then got Adderall from a co-worker.

iv. According to an Amended Judgment of Conviction, Applicant pled no contest to a Possession of an Illegally Obtained Prescription (Misd.). Applicant was sentenced to two (2) years' probation, costs, any assessments and counseling recommended by the probation agent, random urine tests weekly for the first year of probation, AODA assessment and follow-through with any recommended treatment or counseling, and absolute sobriety.

D. On or about September 28, 2022, Applicant was convicted of Possession of Methamphetamine, a felony, Possession of Cocaine, a misdemeanor, Possession of THC, a misdemeanor, and Bail Jumping, a misdemeanor, all in Calumet County, Wisconsin 22 CF 67.

i. According to a Criminal Complaint, on or about March 15, 2022, Officers applied for a search warrant based on drug activity occurring at Applicant's home.

ii. According to a Criminal Complaint, officers found suspected methamphetamine, suspected cocaine, MDMA, Gabapentin, suspected THC, and drug paraphernalia including needles, tourniquets, and smoking devices.

iii. According to an Amended Judgment of Conviction, Applicant pled no contest to Possession of Methamphetamine (Fel.), Possession of Cocaine (Misd.), Possession of THC (Misd.), and Bail Jumping (Misd.). Applicant was sentenced overall to three (3) years of probation, a fine, six (6) months jail with four (4) months stayed, assessment and counseling as recommended by probation agent, weekly random urine testing for the first year of probation, absolute sobriety, and an AODA assessment and follow-through with any recommendations. Applicant may discharge from probation after two (2) years with probation agent approval.

E. On or about September 26, 2022, Applicant had an AODA assessment.

i. According to treatment records, Applicant told the assessor that he last used alcohol on 09/16/22, last used cannabis six (6) months prior, and last used stimulants Adderall, Methamphetamine and cocaine via injection one (1) month prior.

ii. According to treatment records, Applicant met the criteria for alcohol use disorder, moderate, in sustained remission, dependence.

3. In resolution of this matter, Applicant consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Architects Section of the Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, Professional Land Surveyors, and Registered Interior Designers has jurisdiction over this matter pursuant to Wis. Stat. § 440.08(4) and is authorized to enter the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. Pursuant to Wis. Stat. § 440.08(4)(a), the Section may summarily deny an application for renewal if it is necessary to protect the public health, safety or welfare.

3. Applicant's current diagnosis of alcohol use disorder, moderate, in sustained remission, dependence, his historical diagnosis of suspected alcohol dependency, with a recurrent drinking pattern and moderately advanced alcohol chronicity, and his conviction history call into question his fitness to practice architecture in a manner that is required to protect the public health, safety or welfare.

4. At this time, Applicant has failed to show competent evidence of sufficient rehabilitation and fitness to practice as an Architect without limitations.

5. Applicant, by his conduct, is subject to limitations against his registration, pursuant to Wis. Stat. § 440.08(4)(a).

ORDER

1. The attached Stipulation is accepted.

2. Limitations upon Applicant's architect registration are necessary to protect the public health, safety, and welfare.

3. Applicant's architect registration is granted subject to the following
LIMITATIONS:

A. During the period of Applicant's probation sentence in Calumet County, Wisconsin 22 CF 67:

- i. Applicant shall provide a copy of this Order to his current and any future Department of Corrections Agent (Agent). Applicant shall provide the Department of Safety and Professional Services Monitor (Department Monitor) with written acknowledgement from each Agent that a copy of this Order has been received. Such acknowledgement shall be provided to the Department Monitor within fourteen (14) days of being assigned an Agent and/or within fourteen (14) days of the date of this Order for an Agent assigned as of the date of this Order.

- ii. Applicant shall abide by all rules and conditions of his probation sentence.
- iii. Applicant shall maintain absolute sobriety from all alcohol and drugs, unless prescribed to him, and may only take prescription drugs in the manner and amount prescribed.
- iv. Applicant shall not possess controlled substances without a valid and current prescription.
- v. Applicant shall arrange for quarterly reports to be provided to the Section from his probation agent.
- vi. Applicant shall report to the Section any change of employment status, residence, address or telephone number within five (5) days of the date of change.
- vii. 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. After successful completion of Applicant's probation sentence, including an early discharge from probation, Applicant may petition the Section for full, unrestricted license. The Section may grant or deny any petition, in its discretion, or may modify this Order as it sees fit. 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. 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 at: <https://dspsmonitoring.wi.gov>


6. 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 Section or its designee, be

SUSPENDED, without further notice or hearing. The Section 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 Section or its designee. The Section 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.

7. Applicant shall be responsible for all costs and expenses incurred in conjunction with the monitoring, supervision, and any other expenses associated with compliance with the terms of this Order.

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

ARCHITECTS SECTION OF THE WISCONSIN EXAMINING BOARD OF ARCHITECTS,
LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS,
PROFESSIONAL LAND SURVEYORS, AND REGISTERED INTERIOR DESIGNERS

By:  /TLT
A Member of the Section

12/23/2022
Date

STATE OF WISCONSIN
BEFORE THE ARCHITECTS SECTION
OF THE WISCONSIN EXAMINING BOARD OF ARCHITECTS,
LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS,
DESIGNERS, PROFESSIONAL LAND SURVEYORS, AND
REGISTERED INTERIOR DESIGNERS

IN THE MATTER OF APPLICATION FOR
RENEWAL OF AN
ARCHITECT REGISTRATION

ALLAN BIRSCHBACH,
APPLICANT.

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STIPULATION

ORDER 0008317

It is stipulated between Applicant and the Architects Section of the Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, Professional Land Surveyors, and Registered Interior Designers (Section) as follows:

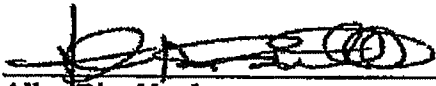
1. Applicant filed an application to renew an architect registration.
2. Information received by the Section reflects a basis for denial of the renewal application.
3. Based upon the information of record, the Section agrees to issue, and Applicant agrees to accept, an Order granting an architect registration, 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. Applicant is represented by Attorney Robert A. Mich, Jr.


6. Applicant agrees to the adoption of the attached Order Granting Limited License by the Section. 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 Section'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.


Allan Birschbach
PO Box 1216
Appleton WI 54912-1216
License No. 4501-5

12/22/2022
Date


Attorney Robert A. Mich, Jr.
Law Offices of Kay & Andersen, LLC
One Point Place, Suite 201
Madison, WI 53719

12/22/22
Date


A Member of the Architects Section
of the Wisconsin Examining Board of Architects,
Landscape Architects, Professional Engineers,
Designers, Professional Land Surveyors,
and Registered Interior Designers
P.O. Box 8935
Madison, WI 53708-8935

12/23/2022
Date