

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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

MICHELLE T. BEARHEART, R.N., :  
APPLICANT. :

ORDER GRANTING  
LIMITED LICENSE FOR A  
WISCONSIN LICENSE  
**ORDER0008371**

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

Michelle T. Bearheart, R.N.  
Turtle Lake, WI 54889

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. Michelle T. Bearheart (Applicant) filed an application to renew her Wisconsin Registered Nurse license (license number 251672-30).
2. Applicant resides in Wisconsin.
3. Information received in the application process reflects that Applicant has the following:
  - A. On or about June 1, 2021 – Operating While Intoxicated (OWI) 1<sup>st</sup>, an ordinance violation.
    - i. Applicant states in 2020 she was dealing with high stress of COVID-19, went for a night out with friends, and decided to drive home.
    - ii. The police report states an officer drove up behind a car stopped at a stop sign. The car did not move and there were no other vehicles

around. Police activated its vehicle lights to engage in traffic stop, at which point Applicant's car began to drive away and went into a ditch. Upon contacting Applicant, police observed Applicant spoke with slurred sloppy speech and emitted the odor of alcohol. Applicant told police she had been at a bar and was on the phone with her husband asking him if she should go out for another drink. Applicant admitted consuming four (4) or five (5) drinks. Applicant also states she has consumed medication for anxiety and mental health. Applicant performed poorly on the Standard Field Sobriety Tests and Applicant's intoximeter resulted with a BrAC of .18.

- iii. Applicant paid a fine, her driver's license was revoked for six (6) months, and she completed an AODA assessment.
- iv. Applicant's Order for Assessment and Driver Safety Plan Report found Alcohol Dependency, with a recurrent drinking pattern, and moderately advanced alcohol chronicity. Applicant was required to complete outpatient treatment and attend a victim impact panel.
  - a. A letter from Whole Life Services dated September 14, 2022, states Applicant completed the treatment for her driver safety plan on June 8, 2022.

4. Applicant underwent an AODA assessment on November 8, 2022.

- A. Applicant was diagnosed with Mild Alcohol Use Disorder and Alcohol Abuse Uncomplicated.
- B. Applicant stated her last date of consumption was November 4, 2022, and that she continues to consume alcohol occasionally. She stated her amount and frequency of alcohol use is two (2) to three (3) drinks less than one (1) time monthly.

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).

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 Applicant is unable to practice safely by reason of alcohol or other substance abuse.

7. 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.

8. 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).

9. As a result of the above conduct, Applicant is subject to limitations on her license pursuant to Wis. Stat. §§ 440.08(4), 441.07(1g)(b), 441.07(1g)(c), and 441.07(1g)(d), and Wis. Admin. Code § N 7.03(6)(f).

#### ORDER

1. The attached Stipulation is accepted.

2. Limitations upon Applicant's Registered Nurse license are necessary to ensure that she is fit and competent to safely practice as a Registered Nurse.

3. Applicant's ability to practice as a Registered Nurse in the state of Wisconsin, and her privilege to practice pursuant to the Nurse Licensure Compact (Compact), is LIMITED as follows:

A. For a period of at least one (1) year from the date of this Order:

i. Applicant shall enroll and participate in a drug and alcohol monitoring program which is approved by the Board or its designee (Approved Program). Enrollment shall occur within thirty (30) calendar days from the date of this Order.

- 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 (1) 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 Applicant 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. A positive test is a violation of this order.
- 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 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.
- x. It is Applicant's responsibility to arrange for quarterly written reports to be submitted to the Department Monitor from her 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.
- 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 report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of change.
- xiii. 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 one (1) year of successful compliance, including at least six hundred (600) hours of approved nursing practice during the 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) 251-3036  
[DSPSMonitoring@wisconsin.gov](mailto:DSPSMonitoring@wisconsin.gov)

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

8. In the event Applicant violates any term of this Order, Applicant's license, or Applicant's right to renewal Applicant's 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. Janice Edelstein, R.N. /ALC  
A Member of the Board

01/23/2023

Date



STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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

MICHELLE T. BEARHEART, R.N.,  
APPLICANT.

STIPULATION

ORDER 0008371

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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.

*Michelle Bearheart RN*  
Michelle T. Bearheart, R.N.  
Turtle Lake, WI 54889  
License no. 251672-30

*1/19/23*  
Date

*Dr. Janice Edelstein, R.N., ALC*  
A Member of the Board of Nursing  
Department of Safety and Professional Services  
P.O. Box 8935  
Madison, WI 53708-8935

*01/23/2023*  
Date