

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	:	
	:	ORDER GRANTING
	:	LIMITED LICENSE FOR A
JENNIFER ROBEK-MILLER, R.N.,	:	WISCONSIN LICENSE
APPLICANT.	:	ORDER 0008405

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

Jennifer Robek-Miller, R.N.
La Crosse, WI 54601

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. Jennifer Robek-Miller (Applicant) filed an application to renew her Wisconsin Registered Nurse license (license number 126388-30).
2. Applicant resides in Wisconsin.
3. Information received in the application process reflects that Applicant has the following violation and conviction:
 - A. On or about December 22, 2016 – Operating While Intoxicated (OWI) 1st, an ordinance violation.
 - i. The police report states police were dispatched to check on the welfare for Applicant who was sleeping in her running vehicle at 3:00 a.m. Upon making contact, Applicant denied sleeping in her car, however a witness told police they saw Applicant sleeping in her vehicle. Police observed a very strong odor of intoxicants emitting from her breath and

observed her speech was very slurred. Applicant admitted drinking at a tavern, displayed numerous indicia of intoxication, performed poorly on the Standard Field Sobriety Tests (SFST), and refused the Preliminary Breath Test. Applicant paid a fine, her driver's license was revoked, and she completed an Alcohol and Other Drug Abuse (AODA) assessment.

- ii. Applicant's Order for Assessment and Driver Safety Plan Report found Irresponsible Use and Applicant completed the group dynamics course.
- B. On or about June 15, 2021 – Operating with a Prohibited Alcohol Concentration, 2nd, a misdemeanor conviction.
- i. Applicant states she was out with friends celebrating Christmas drinking at a bar. Applicant states she stayed later than expected and made the poor decision to drive herself home. The criminal complaint states Applicant was pulled over for speeding and crossing the center line. Upon making contact with Applicant, police detected a moderate odor of intoxicants coming from the car and saw Applicant's eyes were red and bloodshot. Police observed a partially open container of an alcoholic beverage in the center console. Applicant told police she had "not a lot" to drink and she was working in the COVID industry, so she had not gone out lately. Applicant refused to perform the SFST and had a Blood Alcohol Concentration (BAC) of .245. Applicant paid a fine, served twenty (20) days local jail, her driver's license was revoked for twelve (12) months, she had an Ignition Interlock Device for twelve (12) months, and completed an AODA assessment.
 - ii. Applicant's Order for Assessment and Driver Safety Plan report found Suspected Alcohol Dependency and required completion of outpatient treatment, which Applicant successfully completed outpatient counseling on April 28, 2022.
 - iii. Department records show Applicant did not report this conviction to the Board. Applicant admitted she did not know she was supposed to report a conviction within forty-eight (48) hours and apologized for failing to do so.
 - iv. Applicant reports she participated in and completed OWI Treatment Court in May 2022, which consisted of six (6) individual sessions, one hundred (100) group hours, and twelve (12) sessions of driving with care.
- C. Applicant provided a sobriety date of January 9, 2022, less than one (1) year of sobriety since the submission of Applicant's application to renew.

- D. Department records demonstrate Applicant did not report her Operating with a Prohibited Alcohol Concentration 2nd conviction to the Board within forty-eight (48) hours of entry of the judgment of conviction.
4. Information received in the application process reflects that Applicant was arrested for an incident alleged to have occurred on December 4, 2022:
- A. The police report states Applicant was pulled over for speeding. Upon making contact with Applicant, police observed the odor of intoxicants emitting from the vehicle. Police observed Applicant had slurred speech, slow responses, and watery eyes. When asked how much she had to drink, Applicant answered not too much. Applicant had a heavily intoxicated passenger in the vehicle. Applicant told police she consumed two (2) beers. Applicant's poor performance on the SFST indicated impairment and Applicant blew a Preliminary Breath Test (PBT) of .191.
 - B. Applicant's arrest for OWI 3rd and PBT of .191 indicated Applicant has relapsed on alcohol.
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. §§ 440.03(13)(am), 441.07(1g)(b), and 441.07(1g)(d), and Wis. Admin. Code § SPS 4.09(2) and § N 7.03(1)(h), Applicant was obligated to report the conviction to the Board within forty-eight (48) hours of entry of the judgment of conviction.

8. Applicant violated Wis. Stat. §§ 440.03(13)(am), 441.07(1g)(b), and 441.07(1g)(d), and Wis. Admin. Code § SPS 4.09(2) and § N 7.03(1)(h), by failing to report her Operating with a Prohibited Alcohol concentration 2nd conviction to the Board within forty-eight (48) hours of the entry of the judgment of conviction.

9. 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.

10. 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).

11. As a result of the above conduct, Applicant is subject to limitations on her license pursuant to Wis. Stat. §§ 440.08(4), 440.03(13)(am), 441.07(1g)(b), 441.07(1g)(c), and 441.07(1g)(d), and Wis. Admin. Code §§ N 7.03(1)(h), N 7.03(6)(f), and SPS 4.09(2).

ORDER

1. The attached Stipulation is accepted.
2. Limitations upon Applicant's Registered Nurse credential are necessary to ensure that she is fit and competent to practice as a Registered Nurse.
3. Applicant's Registered Nurse license is a Wisconsin single state license and Applicant's practice under Applicant's license is limited to Wisconsin during the pendency of this order.
4. 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 three (3) years from the date of this Order Applicant shall comply with the following requirements 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:
 - a. Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 - b. 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.
 - c. The Approved Program shall require the testing of specimens at a frequency of not less than forty-nine (49) 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 she 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 4.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 three (3) 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 enrolled in and/or 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:
 - a. obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and
 - b. 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 three (3) 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 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.
 - 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.

5. 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.

6. After three (3) 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.

7. 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.

8. 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://dspsonitoring.wi.gov>

9. 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.

10. 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.

11. 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

02/13/2023
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

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

JENNIFER ROBEK-MILLER, R.N.,
APPLICANT.

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STIPULATION

ORDER 0008405

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.

Jennifer Robek-Miller, R.N.
La Crosse, WI 54601
License no. 126388-30

Date

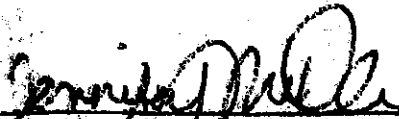
A Member of the Board of Nursing
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

Date

Applicant waives all rights to any appeal of the Board's Order, its contents and the Board's decision.

Applicant is informed that the Order Granting Limited License is a public record and will be published in accordance with standard procedure.

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.


Jennifer Robek-Miller, R.N.
La Crosse, WI 54601
License no. 126388-30

02/06/2023
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

02/13/2023
Date