

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	:	
A LICENSED PRACTICAL NURSE	:	
CREDENTIAL	:	
	:	ORDER GRANTING
	:	LIMITED LICENSE FOR A
KHALI J. KELLOGG,	:	WISCONSIN LICENSE
APPLICANT.	:	ORDER 0008743

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

Khali J. Kellogg
Green Bay, WI 54313

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 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. On or about January 11, 2023, Khali J. Kellogg (Applicant) filed an application (#IA- 28408) for a Wisconsin Licensed Practical Nurse license.
2. Information received in the application process reflects that Applicant has the following:
 - A. On or about May 23, 2013 – Operating While Intoxicated (OWI) 1st, an ordinance violation.
 - B. On or about January 05, 2018 –OWI 2nd, a misdemeanor conviction.
 - i. The criminal complaint states that at approximately 9:00 a.m., police were dispatched to a car accident. Applicant missed a turn into a driveway and instead drove on the lawn and hit a tree. Upon making contact with Applicant, police observed Applicant swaying, and detected an odor of intoxicants when Applicant spoke. Applicant admitted to drinking some beers that morning. Applicant performed

poorly on the Standard Field Sobriety tests (SFST) and Applicant's Blood Alcohol Concentration (BAC) was .209.

- ii. Applicant paid a fine and served seventy-five (75) days in jail. Applicant's driver's license was revoked for sixteen (16) months, and Applicant had an Ignition Interlock Device (IID) for sixteen (16) months. Applicant also completed an Alcohol and Other Drug Abuse (AODA) assessment.
- iii. Applicant's ordered AODA assessment found Suspected Alcohol Dependency and required Applicant to complete four (4) to eight (8) months of outpatient treatment.

C. On or about December 09, 2019 – OWI 3rd, a misdemeanor conviction.

- i. The criminal complaint states that at approximately 8:00 p.m., police were dispatched to a report of a car accident. Applicant struck a tree, causing the airbags to deploy in her car. Applicant admitted to driving. While speaking, police noticed that Applicant emitted a strong odor of alcohol from her breath and had glossy, watery eyes. Applicant admitted to drinking one (1) beer and one (1) shot. Applicant's SFST performance indicated intoxication and Applicant blew a PBT of .214.
- ii. Applicant was placed on probation for one (1) year, her driver's license was revoked for thirty-three (33) months, she had an IID for twelve (12) months, and completed an AODA assessment.
- iii. Applicant's AODA assessment found alcohol dependence and required Applicant to attend outpatient therapy and absolute sobriety.

3. On or about April 14, 2023, The Board requested Applicant undergo an AODA assessment. According to the assessment, dated July 12, 2023:

- A. Since her last OWI in 2019, Applicant drinks three (3) or four (4) beers about once every three (3) months. Applicant provided her date of last use as May 19, 2023
- B. Applicant reported a severe level of alcohol and cannabis use symptoms within her lifetime but no problematic symptoms within the past twelve (12) months.
- C. Applicant was diagnosed with:
 - i. Cannabis Use Disorder in Sustained Remission.
 - ii. Alcohol Use Disorder, Severe, Sustained Remission

iii. Post-Traumatic Stress Disorder, and

iv. ADHD

D. Applicant's assessor recommended that Applicant continue seeing her physician for medication management and continue counseling to address Applicant's trauma. Additional AODA treatment was not recommended for Applicant at this time.

4. 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 licensed practical 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 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 licensed profession 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 is subject to limitations or denial pursuant to 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. As a result of the above conduct, Applicant is subject to limitations on her license pursuant to Wis. Stat. §§ 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 Licensed Practical Nurse license are necessary to ensure that she is fit and competent to safely practice as a Licensed Practical Nurse.
3. Applicant's ability to practice as a Licensed Practical 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. 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 one (1) year from the date of this Order, Applicant shall comply with the following mental health treatment requirements:

- i. Within thirty (30) days of the date of this Order, Applicant shall provide proof to the Department Monitor that Applicant is

continuing treatment with her mental health counselor, Judith Roemer, Licensed Professional Counselor #3541-125, (Mental Health Treater) for Applicant's mental health and trauma symptoms. Applicant's Mental Health Treater must maintain a Wisconsin credential in good standing. Applicant shall participate in, cooperate with, and follow all treatment recommended by the Mental Health Treater.

- ii. Within thirty (30) days of the date of this Order, Applicant shall provide proof to the Department Monitor that Applicant is continuing mental health medication management with Applicant's physician, Dr. Patel (physician), at Oneida Behavioral Health. Applicant's Physician must maintain a Wisconsin credential in good standing. Applicant shall participate in, cooperate with, and follow all treatment recommended by the Physician, including taking medications as prescribed.
- iii. Applicant shall immediately provide her Mental Health Treater and Physician with a copy of this Order and all subsequent orders.
- iv. Applicant's treatment shall include individual and/or group therapy sessions at a frequency to be determined by the Psychiatric Treater and Counselor, 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 Applicant's Mental Health Treater and/or Physician expressly approving termination of therapy.
- v. Applicant's Mental Health Treater and Physician 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 Applicant's Mental Health Treater or Physician is unable or unwilling to serve as treaters, Applicant shall immediately seek Board approval of a successor Mental Health Treater and/or Physician by the Board or its designee.

C. For a period of at least one (1) year 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.
- vi. Applicant is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Applicant shall promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order by Applicant.

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 six (6) months 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 full,

unrestricted 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, 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
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: *Vera Guyton, L.P.N. / ALC*
A Member of the Board

09/07/2023
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF APPLICATION FOR A :
LICENSED PRACTICAL NURSE :
CREDENTIAL :

KHALI J. KELLOGG, :
APPLICANT. :

STIPULATION

ORDER 0008743


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

1. Applicant filed an application for a Licensed Practical Nurse license.
2. Information received by the Board reflects a basis for denial of licensure.
3. Based upon the information of record, the Board agrees to issue, and Applicant agrees to accept, an Order granting a Licensed Practical 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.

 —
Khali J. Kellogg
Green Bay, WI 54313
Application no. IA-28408

9/5/2023 —
Date

Vera Guyton, L.P.N. / ALC
A Member of the Board of Nursing
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

09/07/2023
Date