

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
AFTER FIVE (5) YEARS

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:
:
:
:
:

ORDER GRANTING
LIMITED LICENSE

MELANIE VOLK, R.N.,
APPLICANT.

ORDER 0008746

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

Melanie Volk, R.N.,
New Brighton, MN 55112

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 March 16, 2011, Melanie Volk (Applicant), was issued Wisconsin Registered Nurse license #177019-30.
2. On or about February 28, 2014, Applicant's Registered Nurse license (#177019-30) expired.
3. On or about February 2, 2023, Applicant filed an application (#IA-41923) to renew a Wisconsin Registered Nurse license (#177019-30) after being expired for more than five (5) years.
4. Information received in the application process reflects that Applicant has the following history of terminations and discipline:
 - A. On or about May 5, 2015, Applicant was terminated from her Registered Nurse position at Presbyterian Home in Roseville, Minnesota.

- i. Applicant states that the termination “was for reasons [Applicant] cannot recall.”
 - ii. Minnesota disciplinary records demonstrate Applicant was terminated following missing narcotics and failure to follow various reporting procedures, as per the Minnesota Board of Nursing 2015 Order.
- B. On or about September 10, 2015, the Minnesota Board of Nursing (MN BON) issued an Order, attached and incorporated by reference, finding the following:
 - i. On or about April 15, 2015, Applicant was placed on administrative leave following an investigation regarding the mishandling and disappearance of narcotics at the facility where Applicant was employed. Four (4) home care patients were missing Oxycodone during a time consistent with Applicant’s schedule.
 - ii. On or about April 15, 2015, Applicant was interviewed and admitted to not following policy. As a result, Applicant was terminated from her employment on or about May 5, 2015.
 - iii. On or about June 3, 2015, Applicant answered “no” to the termination question on her application for reregistration of her Minnesota Registered Nurse license.
 - iv. On or about August 11, 2015, Applicant admitted to the theft of narcotics, (sixty (60) tabs of Oxycodone and six (6) tabs of Methadone) for personal use that led to her termination. Applicant admitted to being dependent on narcotics from a 2012 car accident and chronic pain.
 - v. As a result, Applicant’s pending application for the renewal of a Minnesota Registered Nurse (MN RN) license was denied and Applicant’s license was suspended, with reinstatement contingent on numerous requirements, including but not limited to:
 - a. Applicant may apply for reinstatement in twelve (12) months and must establish twelve (12) months of sobriety, participate in an Alcohol and Other Drug Abuse (AODA) rehabilitation program, meet with a Review Panel, complete continuing education and write a report on what was learned, submit a personal statement regarding Applicant’s sobriety, AODA treatment, mental health and future plans for nursing, verify a report of sobriety, submission of reports from Applicant’s employer, Health Care Professional, Pain Management specialist and pain management evaluator, submit a report of

mood-altering substances, undergo a Chemical Dependency Evaluation and submit to random UA screens.

- C. On or about October 5, 2017, the MN BON issued a Stipulation and Order, finding the following:
 - i. Applicant met the requirements for reinstatement outlined in the MN BON 2015 Order.
 - ii. As a result, the MN BON rescinded the 2015 Order, reinstating Applicant's MN RN license.
 - iii. Applicant's RN license was then Suspended, with the suspension stayed contingent on Applicant's compliance with the following requirements:
 - a. Work under supervision, no charge nursing, employment setting restrictions, no controlled substances, no handling of financial affairs.
 - b. Applicant's limitations may be removed after two thousand (2,000) hours of nursing employment.
 - iv. Applicant must also adhere to the following conditions:
 - a. Participation in the Health Professionals Services Program (HPSP).
 - b. Absolute sobriety.
 - v. Applicant may return to full licensure after four thousand (4,000) hours of nursing practice after at least thirty-six (36) months, two thousand (2,000) hours of which are completed after the removal of Applicant's limitation.
- D. On or about August 14, 2019, the Minnesota BON sent a letter to Applicant verifying that Applicant met the requirements of the 2017 Minnesota BON Order. Applicant's limitations were removed, and the conditions remained.
- E. On or about January 26, 2022, the Minnesota BON issued an Order returning Applicant's Minnesota RN license to unconditional status.
- F. On or about October 7, 2022, Applicant was terminated from her Registered Nurse position at Empowerment HealthCare in Brooklyn Park, Minnesota.
 - i. Applicant stated she was not given a reason for this termination.

5. Information received in the application process reflects that Applicant has the following employment history:

Employer Name	Employment Location	Dates Employed-from	Dates Employed-to	Position Held
Health Partners	Bloomington, MN	3/1/2014	3/1/2017	RN
Presbyterian Homes	Roseville, MN	3/1/2017	3/1/2018	RN
The Araz Group	Edina, MN	3/1/2019	3/1/2020	RN
Gianna Homes	Plymouth, MN	3/1/2020	3/1/2021	RN
Empowerment Healthcare	Brookly Park, MN	3/1/2021	10/1/2022	RN

6. In resolution of the 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 of Applicant is unable to practice safely by reason of alcohol or other substances 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 show Applicant may be unable to practice safely by reason of alcohol or other substance abuse.

7. Pursuant to Wis. Stat. §§ 441.07(1g)(b) and (d), and Wis. Admin. Code § N 7.03(1)(b), it is unprofessional conduct and a license may be limited or denied for having a license

to practice nursing or a nurse licensure compact privilege to practice denied, revoked, suspended, limited, or having the credential holder otherwise disciplined in another state, territory, or country.

8. 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) and N 7.03(1)(b).

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 ability to practice as a Registered Nurse in the state of Wisconsin, and her privilege to practice pursuant to the Enhanced Nurse Licensure Compact (Compact), is LIMITED for a period of at least one (1) year as follows:
 - A. For a period of at least one (1) year 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 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 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 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.

- ix. Applicant shall show a copy of this Order to her current and any future employer. Applicant shall provide the Department of Safety and Professional Services Monitor (Department Monitor) with written acknowledgement from each employer that a copy of this Order has been received. Such acknowledgement 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. Applicant shall report to the Department Monitor any change of employment status, residence, address or telephone number within five (5) days of the date of a change.
- xi. 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.
- xii. 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 48 hours of any such event.
- xiii. 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. 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 under this Order, including at least six hundred (600) hours of approved nursing practice during one (1) 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://dpsmonitoring.wi.gov>

8. 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.

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

09/11/2023
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF APPLICATION
FOR RENEWAL OF A
REGISTERED NURSE CREDENTIAL
AFTER FIVE (5) YEARS

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:
:

STIPULATION

MELANIE VOLK, R.N.,
APPLICANT.

ORDER 0008746


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 after being expired for more than five (5) years.
2. Information received by the Board reflects a basis for denial of the application.
3. Based upon the information of record, the Board agrees to issue, and Applicant agrees to accept, an Order granting renewal of a Registered Nurse license after five (5) years, 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.



Melanie Volk, R.N.,
New Brighton, MN 55112
Application no. IA-41923

9/11/2023

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

09/11/2023

Date