



The Commonwealth of Massachusetts  
 Executive Office of Health and Human Services  
 Department of Public Health  
 Division of Health Professions Licensure  
 239 Causeway Street, Suite 500, Boston, MA 02114

CHARLES D. BAKER  
 Governor

KARYN E. POLITO  
 Lieutenant Governor

Tel: 617-973-0800  
 TTY: 617-973-0988  
[www.mass.gov/dph/boards](http://www.mass.gov/dph/boards)

MARYLOU SUDDERS  
 Secretary  
 MONICA BHAREL, MD, MPH  
 Commissioner

November 24, 2015

**BY FIRST CLASS AND CERTIFIED MAIL RETURN  
 RECEIPT REQUESTED NO. 7015 1660 0001 1911 0175**

Kerry A. Hoag

redact

**RE: In the Matter of Kerry A. Hoag, RN License No. 252072  
 Board of Registration in Nursing Docket No. NUR-2013-0219**

Dear Ms. Hoag:

Enclosed is the *Final Decision and Order by Default* ("Final Decision") issued by the Board of Registration in Nursing ("Board") in connection with the above-referenced matter. The effective date of the Board's Order is ten (10) days from the date appearing on page 5 of the *Final Decision* ("Date Issued"). Your appeal rights are noted on page 5 of the *Final Decision*.

Sincerely,

Amy S. Fein, RN, BSN, JD  
 Co-Interim Executive Director  
 Board of Registration in Nursing



I do hereby certify the foregoing to be a true and certified copy of the document on file with the ENC. Massachusetts Board of Registration in Nursing.

Authorized Signature      12/4/15  
 Date

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN NURSING

\_\_\_\_\_  
In the Matter of )  
KERRY A. HOAG )  
RN License No. 252072 )  
License Expires 7/16/2016 )  
\_\_\_\_\_ )

Docket No. NUR-2013-0219

FINAL DECISION AND ORDER BY DEFAULT

On August 19, 2015, the Board of Registration in Nursing ("Board") issued and duly served on Kerry A. Hoag ("Respondent"), an Order to Show Cause ("Show Cause Order")<sup>1</sup> related to a complaint filed regarding Respondent's RN License. In addition to stating the allegations against Respondent, the Show Cause Order notified Respondent that an Answer to the Show Cause Order ("Answer") was to be submitted within 21 days of receipt of the Show Cause Order.<sup>2</sup> The Show Cause Order also notified Respondent of the right to request a hearing on the allegations<sup>3</sup> and that any hearing request ("Request for Hearing") was to be submitted within 21 days of receipt of the Show Cause Order.<sup>4</sup> Respondent was further notified that failure to submit an Answer within 21 days "shall result in the entry of default in the above-captioned matter" and, if defaulted, "the Board may enter a Final Decision and Order that assumes the truth of the allegations in the Show Cause Order and may revoke, suspend, or take other disciplinary action against [Respondent's] license to practice as a Registered Nurse in the Commonwealth of Massachusetts, including any right to renew [Respondent's] license." A copy of the Show Cause Order is attached to this Final Decision and Order by Default and is incorporated herein by reference.

As of the date of this Final Decision and Order by Default, Respondent has failed to file either an Answer or a Request for Hearing.

<sup>1</sup> Pursuant to 801 CMR 1.01(6)(a)

<sup>2</sup> In accordance with 801 CMR 1.01(6)(d)(2).

<sup>3</sup> Pursuant to G.L. c. 112 §61

<sup>4</sup> Respondent was also notified that failure to timely submit a Request for Hearing would constitute a waiver of the right to a hearing

KERRY A. HOAG  
RN License No. 252072  
NUR-2013-0219

The Board has afforded Respondent an opportunity for a full and fair hearing on the allegations in the Show Cause Order as required by G.L. c. 30A, §10, and sufficient notice of the issues involved to afford Respondent reasonable opportunity to prepare and present evidence and argument as required by G.L. c. 30A, §11(1). The Board has also notified Respondent of the obligation under 801 CMR 1.01(6)(d) to file an Answer to the Show Cause Order within 21 days of its receipt and of the consequences of failing to file an Answer or otherwise respond.

As authorized by G.L. c. 30A, §10(2), the Board may make informal disposition of any adjudicatory proceeding by default. Upon default, the allegations of the complaint against Respondent are accepted as true. *Danca Corp. v. Raytheon Co.*, 28 Mass. App. Ct. 942, 943 (1990).

Based on the foregoing, the Board enters a default in the above-captioned matter and, consequently, the allegations in the Order to Show Cause are deemed to be true and Respondent has waived the right to be heard. In accordance with the Board's authority and statutory mandate, the Board orders as follows:

#### ORDER

Based on its Final Decision and Order by Default, the Board revokes the Respondent's license to practice as a Registered Nurse in Massachusetts, RN252072 for a minimum of three (3) years. The Board further revokes the Respondent's right to renew her license.

If Respondent renews her license to practice as a Registered Nurse in Massachusetts before the Effective Date of this Final Decision and Order by Default, the Board Revokes said license, RN252072.

Respondent is hereby ordered to return any nursing license issued to her by the Board, whether current or expired, to the Board's office at 239 Causeway Street, Boston, Massachusetts 02114, by hand or by certified mail, within ten (10) days of the Effective Date set forth below.

Respondent shall not practice as a Registered Nurse in Massachusetts on or after the Effective Date of this Order. "Practice as a Registered Nurse" includes, but is not

limited to, seeking and accepting a paid or voluntary position as a Registered Nurse or in any way representing herself as a Registered Nurse in Massachusetts. The Board shall refer any evidence of unlicensed practice to appropriate law enforcement authorities for prosecution as provided by G.L. c. 112, §§ 65 and 80.

The Board may choose to reinstate Respondent's license if the Board determines in its sole discretion that reinstatement is in the best interests of the public health, safety and welfare.

Respondent may petition the Board in writing for relicensure when she can provide documentation satisfactory to the Board demonstrating her ability to practice nursing in a safe and competent manner. Such documentation shall include evidence that Respondent has been in stable and sustained recovery from all substances of abuse for the three (3) years immediately preceding any petition for relicensure. Accordingly, Respondent shall with any petition for relicensure have submitted directly to the Board:

- 1) the results of random supervised urine tests for substances of abuse for Respondent, collected no less than fifteen (15) times per year, according to the requirements outlined in Attachment A, during the two (2) years immediately preceding the petition for relicensure, all of which are required to be negative;
- 2) documentation that Respondent obtained a sponsor and regularly attended Alcoholics Anonymous (AA) and/or Narcotics Anonymous (NA) meetings at least three (3) times per week during the two (2) years immediately preceding any petition for license reinstatement, such documentation to include a letter of support from the Respondent's sponsor and weekly signatures verifying this required attendance;
- 3) documentation verifying that Respondent has regularly attended group or individual counseling or therapy, or both, during the two (2) years immediately preceding any petition for relicensure;<sup>5</sup>
- 4) reports from Respondent's primary care provider and any specialist(s) whom Respondent may have consulted verifying that Respondent is medically able to resume the safe and competent practice of nursing, which meets the requirements set forth in Attachment B 1
- 5) A comprehensive mental health evaluation of the Respondent conducted by a

---

<sup>5</sup> Such documentation shall be completed by each licensed mental health professional seen by Respondent, and shall be written within thirty (30) days preceding any petition for relicensure. Further, such documentation shall include: a summary of Respondent's progress in therapy and her full, sustained recovery from substance abuse, dependence and addiction; a statement of the frequency and length of therapy; and specific treatment recommendations for Respondent's full, sustained recovery from substance abuse, dependence and addiction.

licensed mental health provider which meets the requirements set forth in Attachment B2

- 6) if employed during the year immediately preceding Respondent's petition for relicensure, have each employer from said year submit on official letterhead an evaluation reviewing Respondent's attendance, general reliability, and overall job performance;<sup>6</sup>
- 7) certified Court and/or Agency documentation that there are no pending actions or obligations, criminal or administrative, against the Respondent before any court or Administrative Agency including, but not limited to:
  - a. Documentation that *at least one (1) year prior to any petition for reinstatement* the Respondent satisfactorily completed all court requirements (including probation) imposed on her/him in connection with any criminal matter and a description of those completed requirements and/or the disposition of such matters;<sup>7</sup> and
  - b. Certified documentation from the state board of nursing of each jurisdiction in which the Respondent has ever been licensed to practice as a nurse, sent directly to the Massachusetts Board identifying her license status and discipline history, and verifying that her nursing license is, or is eligible to be, in good standing and free of any restrictions or conditions.
- 8) documentation satisfactory to the Board of Respondent's successful completion of all continuing education equivalent to the continuing education required by Board regulations for the two (2) license renewal cycles immediately preceding any petition for relicensure.

The Board may condition its approval of Respondent's petition for reinstatement upon the respondent entering into a Consent Agreement for Probation of Respondent's nursing license for a period of time, with such restrictions and requirements that the Board may at that time and in its sole discretion determine are reasonably necessary to protect the public health, safety, and welfare.

The Board voted to adopt the within Final Decision by Default at its meeting held on November 18, 2015, by the following vote: *In favor*: S. Abbott; A. Alley, BSN, RN; M. Beal, RN/NM; P. Gales, RN; K. Gehly, RN; J. Killion, LPN; C. LaBelle, RN, BSN;

---

<sup>6</sup> If Respondent was not employed during this period, submit an affidavit so attesting.

<sup>7</sup> The Respondent shall also provide, if requested, an authorization for the Board to obtain a Criminal Offender Record Information (CORI) Report of the Respondent conducted by the Massachusetts Criminal History Systems Board and a sworn written statement that there are no pending actions or obligations, criminal or administrative, against the Respondent before any court or administrative body in any other jurisdiction.

E. Richard Rothmund; C. Simonian, Pharm.D., R.Ph.; S. Taylor, MSN, RN; C. Urena, LPN; *Opposed:* None; *Abstained:* None; *Recused:* None; *Absent:* A. Peckham, RN, MSN; C. Tebaldi, RN, MS.

The Board voted to adopt the within Final Order by Default at its meeting held on November 18, 2015, by the following vote: *In favor:* S. Abbott; A. Alley, BSN, RN; M. Beal, RN/NM; P. Gales, RN; K. Gehly, RN; J. Killion, LPN; C. LaBelle, RN, BSN; E. Richard Rothmund; C. Simonian, Pharm.D., R.Ph.; S. Taylor, MSN, RN; C. Urena, LPN; *Opposed:* None; *Abstained:* None; *Recused:* None; *Absent:* A. Peckham, RN, MSN; C. Tebaldi, RN, MS.

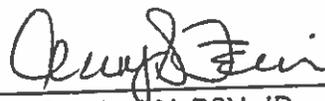
#### EFFECTIVE DATE OF ORDER

This Final Decision and Order by Default becomes effective upon the tenth (10<sup>th</sup>) day from the date it is issued (see "Date Issued" below).

#### RIGHT TO APPEAL

Respondent is hereby notified of the right to appeal this Final Decision and Order by Default to either the Supreme Judicial Court pursuant to M.G.L. c. 112, § 64 or to a superior Court with jurisdiction pursuant to M.G.L. c. 30A §§ 12. Respondent must file his appeal within thirty (30) days of receipt of this notice of Final Decision and Order by Default.

Board of Registration in Nursing



Amy S. Fein, RN, BSN, JD  
Co-Interim Executive Director  
Board of Registration in Nursing

Date Issued: November 24, 2015

Notified:

VIA FIRST CLASS AND CERTIFIED MAIL RETURN  
RECEIPT REQUESTED NO. 7015 1660 0001 1911 0175

Kerry A. Hoag

redact

BY HAND DELIVERY

Michelle D. Fentress  
Prosecuting Counsel  
Department of Public Health  
239 Causeway Street, Suite 500  
Boston, Massachusetts 02114

## ATTACHMENT A

### **Guidelines for Nurses' Participation in Random Urine Drug Screens for Evaluation by the Massachusetts Board of Registration in Nursing (Board)**

- I. Nurses who are required by a Board Agreement or Order to have random, supervised urine drug screens are expected to remain abstinent from all substances of abuse, including alcohol. It is a nurse's responsibility not to ingest any substance(s) that may produce a positive drug screen, including over-the-counter medications. Unless otherwise stated in a nurse's Board Agreement or Order, all nurses shall be randomly tested a minimum of fifteen (15) times per year.
- II. The Board designates one Drug Testing Management Company (DTMC).<sup>8</sup> The Board will accept only the results of urine drug screens that are performed under the auspices of the DTMC and reported directly to the Board.
- III. All costs related to a nurse's participation in the DTMC urine drug screening program are the responsibility of the participating nurse.
- IV. A nurse is expected to sign an agreement with the DTMC and to comply with all of the conditions and requirements of the agreement with the DTMC and any related policies, including without limitation, any requirements related to supervision of urine collection and/or temperature checks.
- V. No vacations from calling to test or from testing shall be approved. This does not mean that a nurse cannot take a vacation while participating in random urine screens; arrangements can be made thorough the DTMC to have urine screens done at approved laboratories throughout the continental U.S.
- VI. Failure to call the DTMC or failure to test when selected shall be considered non-compliance with the nurse's Board agreement or Order. Calls to the DTMC must be made between the hours of 5:00 a.m. and 1:00 p.m.
- VII. Failure to test when selected, and/or a positive drug screen that is confirmed by the Medical Review Officer (MRO) and that is not supported by appropriate documentation of medical necessity and a valid prescription shall be considered as a relapse in the nurse's abstinence. All prescriptions for any medication (including renewal prescriptions) must be submitted to the DTMC within five (5) days.

---

<sup>8</sup> The current DTMC is First Lab. To contact First Lab call (800) 732-3784.

- VIII. Urine drug screen reports that show a low creatinine (<20 mg/dl) may be an indication of an adulterated or diluted specimen; further testing may be required.
- IX. Nurses who do not have a current MA nursing license and who are enrolled in urine drug screening with the DTMC for the purpose of documenting to the Board that they are in stable and sustained recovery from substance abuse, must provide written authorization to the DTMC to release to the Board a complete record of their participation in the drug screening program, including documentation of missed calls, no shows, test results and a full history report at the completion of their DTMC participation. During their DTMC participation, nurses who do not have a current MA nursing license for whatever reason (surrender, suspension, lapse, revocation) are expected to designate a monitor of their choosing (e.g. friend, family member, health care provider, AA sponsor) who will be authorized to receive test results from the DTMC. The Board does not monitor the testing of unlicensed individuals and will evaluate a nurse's participation in the DTMC only when the DTMC testing is completed and the nurse applies for license reinstatement. Unlicensed nurses should identify themselves as such to the DTMC and sign an individual agreement with the DTMC.
- X. Random supervised urine tests are done in panels which shall include, but are not limited to, each of the following substances:
- Ethanol and all ethanol products
  - Amphetamines
  - Barbiturates
  - Benzodiazepines
  - Buprenorphine
  - Cannabinoids
  - Cocaine (metabolite)
  - Opiates:
    - Codeine
    - Morphine
    - Hydromorphone
    - Hydrocodone
    - Oxycodone
    - Phencyclidine
    - Methadone
    - Propoxyphene
    - Meperidine
    - Tramadol
    - Suboxone

## **ATTACHMENT B 1**

### **Minimum requirements for medical evaluations to be submitted to the Board**

#### **Medical evaluation**

A medical evaluation of the Licensee conducted by a licensed, board certified physician or certified nurse practitioner written on the provider's letterhead, sent directly to the Board by the provider and completed within thirty (30) days before submission of the petition for reinstatement or other submission to the Board. The evaluation shall state that the provider has reviewed this document and any Board Consent Agreement, Order, and/or other relevant documents, and that he or she has reviewed the specific details of the Licensee's underlying conduct alleged or otherwise described.

The evaluation shall provide a detailed, clinically based assessment of the Licensee and shall be completed in accordance with all accepted standards for such an evaluation. The purpose of the evaluation is to provide the Board with the provider's analysis of the following materials and his or her opinion as to whether the Licensee is able to practice nursing in a safe and competent manner. To be most useful to the Board, the evaluation should include, but not be limited to, the following:

- a. **Record Review.** A review of the Licensee's written or electronic medical and mental health records (for at least the preceding two years);
- b. **Conversation(s) with Provider(s).** Follow up conversations with any currently or recently treating primary care physicians or advanced practice registered nurses and any mental health providers;
- c. **Review of Prescriptions.** A list of all of the Licensee's prescribed medications with the medical necessity for each prescription; if there are or may be other prescribers than the evaluating provider then the evaluation should include a review of all of the Licensee's pharmacy records for the preceding two years;
- d. **In-Person Interview(s).** Medical (and mental health if pertinent) history obtained by the provider through in-person interviews with the Licensee, which are as extensive as needed for the provider to reach a clinical judgment;
- e. **Detailed Statement of History.** A detailed statement of the Licensee's medical (and mental health if pertinent) history including diagnoses, treatments and prognoses;

- 
- f. **Detailed Description(s) of Current Conditions.** Detailed descriptions of the Licensee's existing medical conditions with the corresponding status, treatments and prognosis including, but not limited to, each condition, if any, which gave rise to the conduct which is the subject of the Board's interest;
  - g. **Any Existing Limitations.** A detailed description of any and all corresponding existing or continuing limitations of any kind;
  - h. **Ongoing Treatment Plan.** Recommendations for the Licensee's on-going treatment and specific treatment plan, if any;
  - i. **Evaluating Provider's Opinion as to Safety and Competence.** The provider's opinion as to whether the Licensee is presently able to practice nursing in a safe and competent manner (in light of all of the above); and
  - j. **Provider's C.V.** A copy of the provider's curriculum vitae should be attached.

## ATTACHMENT B 2

### **Minimum requirements for mental health evaluations to be submitted to the Board**

#### **Mental Health evaluation**

A comprehensive mental health evaluation of the Licensee conducted by a licensed clinical psychologist (Ph.D or Psy.D or Ed.D), Psychiatric Clinical Nurse Specialist, board certified Psychiatric Certified Nurse Practitioner, or a licensed, board certified psychiatrist written on said provider's letterhead, sent directly to the Board by the provider and completed within thirty (30) days before submission of the petition for reinstatement or other submission to the Board. The evaluation shall state that the provider has reviewed this document and any Board Consent Agreement, Order, and/or other relevant documents, and that he or she has reviewed the specific details of the Licensee's underlying conduct alleged or otherwise described.

The evaluation shall provide a detailed, clinically based assessment of the Licensee and shall be completed in accordance with all accepted standards for such an evaluation. The purpose of the evaluation is to provide the Board with the provider's analysis of the following materials and his or her opinion as to whether the Licensee is able to practice nursing in a safe and competent manner. To be most useful to the Board, the evaluation should include, but not be limited to, the following:

- a. **Record Review.** A review of the Licensee's written or electronic mental health records (for at least the preceding two years) (and medical records from the same time frame if pertinent);
- b. **Conversation(s) with Provider(s).** Follow up conversations with any currently or recently treating mental health providers (and primary care physicians or advanced practice registered nurses, as relevant);
- c. **Review of Prescriptions.** A list of all of the Licensee's prescribed medications with the medical necessity for each prescription; if there are or may be other prescribers than the evaluating provider, then the evaluation should include a review of all of the Licensee's pharmacy records for the preceding two years;
- d. **In-Person Interview(s).** Mental health (and medical if pertinent) history obtained by the provider through in-person interviews with the Licensee, which are as extensive as needed for the provider to reach a clinical judgment;
- e. **Detailed Statement of History.** A detailed statement of the Licensee's mental health (and medical if pertinent) history including diagnoses, treatments and prognoses;
- f. **Detailed Description(s) of Current Conditions.** Detailed descriptions of the Licensee's existing mental health conditions with the corresponding status,

treatments and prognosis including, but not limited to, each condition, if any, which gave rise to the conduct which is the subject of the Board's interest;

- g. Specific Assessments. Assessments of the Licensee in each of the following areas:
- i. Cognition status - orientation to time, place and person; ability to recognize and organize responsibilities accurately and to make accurate, appropriate decisions; critical thinking ability sufficient for appropriate clinical judgment; and ability to collect and analyze data to problem solve efficiently and accurately, and to identify cause and effect relationships accurately.
  - ii. Affective status- interpersonal skills sufficient to interact appropriately and honestly with individuals, families and groups; and ability to recognize and conform to lawful standards of social conduct.
  - iii. Ability to recognize the limits of professional boundaries, including an assessment of risk that the Licensee will violate professional boundaries with patients.
  - iv. Ability to control her/his impulses; and the likelihood that she/he will repeat any of the conduct that gave rise to the Board's review of his/her safety and competency in nursing practice.
- h. Summary of Progress and/or Limitations. A summary of the progress Licensee has made in treatment and detailed description of any and all corresponding existing or continuing limitations of any kind;
- i. Ongoing Treatment Plan. Recommendations for the Licensee's on-going treatment and specific treatment plan, if any;
- j. Evaluating Provider's Opinion as to Safety and Competence. The provider's opinion as to whether the Licensee is presently able to practice nursing in a safe and competent manner (in light of all of the above); and
- k. Provider's C.V. A copy of the provider's curriculum vitae should be attached.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN NURSING

\_\_\_\_\_  
In the Matter of )  
**KERRY A. HOAG** )  
RN License No. 252072 )  
License Expires 7/16/2016 )  
\_\_\_\_\_ )

Docket No. NUR-2013-0219

ORDER TO SHOW CAUSE

KERRY A. HOAG you are hereby ordered to appear and show cause why the Massachusetts Board of Registration in Nursing ("Board") should not suspend, revoke, or otherwise take action against your license to practice as a Registered Nurse, in the Commonwealth of Massachusetts, License No. 252072 or your right to renew such license, pursuant to G.L. c. 112, §61 and Board regulation 244 CMR 9.03, based upon the following facts and allegations:

1. On or about December 19, 2001, the Board issued to you a license to engage in the practice of nursing as a Registered Nurse ("RN") in the Commonwealth of Massachusetts. Your license will expire on July 16, 2016, unless renewed.
2. On October 10, 2013, while you were licensed to practice as an RN in Massachusetts and working at North Adams Regional Hospital ("NARI") located in North Adams, Massachusetts, you worked while impaired by drugs and/or alcohol. Your conduct includes, but was not limited to the following:
3. On October 10, 2013, you were scheduled to work the night shift at NARI. At approximately 1 a.m., another nurse ("Nurse 1") found you lying on the floor in a storage room at NARI. According to Nurse 1, you were "difficult to arouse...confused and disoriented." You informed Nurse 1 that you hit your head. Nurse 1 helped you off of the floor and escorted you to the charting room and helped you sit in a chair there. You then placed your head on a desk in the charting room. Nurse 1 observed that you had placed a bag of tobacco and a cigarette rolling machine on the desk and she also observed a large bottle of peppermint schnapps in your bag. Nurse 1 stated that she detected the odor of alcohol on your breath.
4. A second nurse, ("Nurse 2") observed you in the charting room with your head on the desk. According to Nurse 2, she left the charting room and when she returned to check on you a short while later, you were sitting up and you appeared flushed and groggy. Nurse 2 detected an odor of alcohol. Approximately 35 minutes later, as Nurse 2 was retrieving your bag to give it to NARI Security, she observed a large bottle of peppermint schnapps sticking out of your bag.

5. The Administrative Coordinator ("AC") observed you in the charting room with your head on the desk, and with paperwork, tobacco, and rolling equipment scattered on the desk and on the floor. According to the AC, you attempted to roll a cigarette, and when the AC told you that you could not roll a cigarette at work, you asked "why not?" The AC asked you if you hit your head and you at first replied that you did not, but then you stated you had hit your head the day before. The AC stated that your breath "smelt of alcohol."
6. At approximately 4:45 a.m., the Administrator on Call ("AOC") spoke with you about the observations referred to in the preceding paragraphs. The AOC asked you if you consumed any alcohol or drugs or if you were taking any medications that might impair you and you responded "no." The AOC then informed you that you needed to go to the Emergency Department for an evaluation and you agreed.
7. The Emergency Department Report relative to the evaluation described in the preceding paragraph states that during the physical examination, you "had alcohol on [your] breath." The Report further states that you "had a serum alcohol of 171" and your "urine drug screen was positive for opiates." You were diagnosed with "acute alcohol intoxication" and a "minor head contusion."
8. On or about October 24, 2013, you submitted a letter to the interim Human Resources Director at NARI in which you stated that you are "not a 'drinker', and [you] have no desire for it." You further stated "I guarantee nothing like that to ever happen again."
9. On November 29, 2013, you were arrested for Operating under the Influence of Liquor ("OUI Liquor") after an officer with the North Adams Police Department observed you driving in a breakdown lane and then strike and drive over a curb. You failed the three (3) field sobriety tests the officer administered and you were found to be in possession of a 10-pack of Smirnoff Root Beer Vodka Nips (100 proof) of which two (2) were empty and in a bag in your vehicle.
10. As a result of the conduct described in the preceding paragraph, on December 2, 2013, you were arraigned in the Northern Berkshire District Court, Docket No. 1328CR001186 for OUI Liquor and Marked Lanes Violation, a civil motor vehicle infraction.
11. On February 28, 2014, you were found responsible for the civil motor vehicle infraction and you admitted to sufficient facts to warrant a finding of guilty on the OUI Liquor charge and you were placed on probation until February 27, 2015. You were ordered to complete the Driver Alcohol Education Program ("DAEP") and to pay certain fees.
12. On May 20, 2014, you were served in-hand with a Notice of Probation Violation and Hearing because you were "\$195 behind on P.O. fees." The hearing for the Probation Violation Notice was scheduled for May 23, 2014.
13. On May 23, 2014, the Notice of Probation Violation and Hearing was withdrawn and your case was continued to February 27, 2015.

14. On July 12, 2014, you were served by mail with a second Notice of Probation Violation and Hearing because you "failed to pay P.O. fee \$130" and you "failed to report to P.O. [B] for June." The hearing on the Probation Violation Notice was scheduled for July 16, 2014.
15. On July 16, 2014, the second Notice of Probation Violation and Hearing was withdrawn and your case was continued to February 27, 2015.
16. On February 27, 2015, a probation officer issued a Notice of Probation Violation and Hearing because you "did not complete DAEP" and you failed to make a required payment of \$1,045.
17. On February 27, 2015, you did not appear in court and a default warrant issued against you.
18. On April 27, 2015 while you were being detained on the warrant referred to in the preceding paragraph, you were served in hand with a Notice of Probation Detention Hearing because you "failed to complete the DAEP" and to pay the "balance of \$1,095" which you were ordered to pay as part of your probation. The court ordered that you remain detained until April 28, 2015 "for hearing on detention and section 35."
19. On April 28, 2015, after a hearing on the Notice of Probation Detention referred to in the preceding paragraph, you admitted to violating the terms of your probation and the probation order described in Paragraph No. 11 was modified as follows: "waive all monies owed to court; once DAEP completed probation may be terminated."
20. On July 27, 2015, a probation officer issued a Notice of Probation Violation and Hearing because you failed to complete the DAEP. A straight warrant issued against you.
21. As of this date, you have failed to appear in court to have the warrant referred to in the preceding paragraph recalled and you remain in violation of the terms and conditions of your probation.

#### Grounds for Discipline

- A. Your conduct as alleged, warrants disciplinary action by the Board against your license to practice as an RN pursuant to Board regulation 244 CMR 9.03(5), because you did not engage in the practice of nursing in accordance with accepted standards of practice.
- B. Your conduct as alleged, warrants disciplinary action by the Board against your license to practice as an RN pursuant to Board regulation 244 CMR 9.03(36), because you practiced nursing while impaired.

- C. Your conduct as alleged, warrants disciplinary action by the Board against your license to practice as an RN pursuant to Board regulation 244 CMR 9.03 (47), because you failed to refrain from engaging in any other conduct that fails to conform to accepted standards of nursing practice or in any behavior that is likely to have an adverse effect upon the health, safety, or welfare of the public.
- D. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as an RN pursuant to G.L. c. 112, §61 for deceit, malpractice, and gross misconduct in the practice of the profession and for any offense against the laws of the Commonwealth relating thereto.
- E. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as an RN pursuant to G.L. c. 112, §74, for lack of the good moral character required for initial licensure and license renewal.
- F. Your conduct as alleged also constitutes unprofessional conduct and conduct that undermines public confidence in the integrity of the nursing profession. *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996); see also *Kvitka v. Board of Registration in Medicine*, 407 Mass. 140, cert. denied, 498 U.S. 823 (1990); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708, 713 (1982).

\*\*\*\*\*

You have a right to an adjudicatory hearing ("hearing") on the allegations contained in the Order to Show Cause before the Board determines whether to suspend, revoke, or impose discipline against your license. G.L. c. 112, §61. Your right to a hearing may be claimed by submitting a written request for a hearing *within twenty-one (21) days of receipt of this Order to Show Cause*. You must also submit an Answer to this Order to Show Cause in accordance with 801 CMR 1.01 (6)(d) *within twenty-one (21) days of receipt of this Order to Show Cause*. The Board will give you prior written notice of the time and place of the hearing following receipt of a written request for a hearing.

Hearings shall be conducted in accordance with the State Administrative Procedure Act, G.L. c. 30A, §§10 and 11, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 and 1.03, under which you are granted certain rights including, but not limited to, the rights: to a hearing, to secure legal counsel or another representative to represent your interests, to call and examine witnesses, to cross-examine witnesses who testify against you, to testify on your own behalf, to introduce evidence, and to make arguments in support of your position.

The Board will make an audio recording of any hearing conducted in the captioned matter. In the event that you wish to appeal a final decision of the Board, it is incumbent on you to supply a reviewing court with a "proper record" of the proceeding, which may include a written transcript. *New Bedford Gas and Light Co. v. Board of Assessors of Dartmouth*, 368 Mass. 745, 749-750 (1975). Upon request, the Board will make available a copy of the audio recording of the proceeding at your own expense. Pursuant to 801 CMR 1.01 (10)(i)(1), upon motion, you "may be allowed to provide a public stenographer to transcribe the proceedings at [your] own expense upon terms offered by the Presiding Officer." Those terms may include a

requirement that any copy of the transcript produced must be sent promptly upon completion and on an ongoing basis directly to the Presiding Officer by the stenographer or transcription service. The transcript will be made available to the Prosecutor representing the Board. Please note that the administrative record of the proceedings, including but not limited to, the written transcript of the hearing is a public record and subject to the provisions of G.L. c. 4, §7 and G.L. c. 66, §10.

Your failure to submit an Answer to the Order to Show Cause within 21 days of receipt of the Order to Show Cause *shall result in the entry of default* in the above-captioned matter. Your failure to submit a written request for a hearing within 21 days of receipt of this Order to Show Cause *shall constitute a waiver of the right to a hearing* on the allegations herein and on any Board disciplinary action.

Notwithstanding the earlier filing of an Answer and/or request for a hearing, your failure to respond to notices or correspondence, failure to appear for any scheduled status conference, pre-hearing conference or hearing dates, or failure to otherwise defend this action shall result in the entry of default.

If you are defaulted, the Board may enter a Final Decision and Order that assumes the truth of the allegations in this Order to Show Cause, and may revoke, suspend, or take other disciplinary action against your license to practice as a Registered Nurse in the Commonwealth of Massachusetts, including any right to renew your license.

Your Answer to the Order to Show Cause and your written request for a hearing must be filed with Michelle Fentress, Prosecutor at the following address:

Michelle D. Fentress, Esq.  
Prosecuting Counsel  
Department of Public Health  
Office of the General Counsel  
239 Causeway Street, Suite 500  
Boston, MA 02114

You or your representative may examine Board records relative to this case prior to the date of the hearing during regular business hours at the office of the Prosecutor. If you elect to undertake such an examination, then please contact Prosecuting Counsel in advance at (617) 973-0979 to schedule a time that is mutually convenient.

BOARD OF REGISTRATION IN NURSING,

By:   
Michelle D. Fentress, Esq.  
Prosecuting Counsel  
Department of Public Health

August 19, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Cover Letter, Order to Show Cause and Certificate of Service were served upon the Licensee, Kerry A. Hoag, at the following address of record with the Board:

Kerry A. Hoag

redact

by first class mail, postage prepaid, and certified mail no. 7014 1820 0000 6749 6513

This 20<sup>th</sup> day of August, 2015.



Michelle D. Pentress, Esq.  
Prosecuting Counsel