



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

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 Governor

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MARYLOU SUDDERS  
 Secretary

MONICA BHAREL, MD, MPH  
 Commissioner

May 20, 2015

Sean Keener

redact

VIA FIRST CLASS AND CERTIFIED MAIL RETURN  
 RECEIPT REQUESTED NO. 7012 3460 0001 7330 8326

Sean Keener

redact

VIA FIRST CLASS AND CERTIFIED MAIL RETURN  
 RECEIPT REQUESTED NO. 7012 3460 0001 7330 8333

RE: *In the Matter of Sean Keener*, Docket No. NUR-2013-0189  
 License No. RN283043

Dear Mr. Keener:

Please find enclosed the **Final Decision and Order by Default** issued by the Board of Registration in Nursing on May 20, 2015 and effective **May 30, 2015**. This constitutes full and final disposition of the above-referenced complaint, as well as the final agency action of the Board. Your appeal rights are noted on page 6.

Please note that as of the effective date, your license status will change to **Expired while Revoked**. It will remain in a revocation status until the Board notifies you of a change in license status in accordance with the terms of the order. Please direct all questions, correspondence and documentation relating to licensure reinstatement to the attention of Traci Westgate at the address above. You may also contact Ms. Westgate at (617) 973 – 0894. You may contact Vita Berg, Chief Board Counsel at (617) 973 – 0950 with any other questions that you may have concerning this matter.

Sincerely

*Rula Harb*

Rula Harb, MSN, RN  
 Executive Director, Board of Registration in Nursing

Encl.

cc: Eugene Langner, Prosecuting Counsel



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

*[Signature]* 5/20/15  
 Authorized Signature Date

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN NURSING

In the Matter of )  
Sean Keener )  
RN License No. 283043 )  
License Expired 12/14/14 )

Docket No. NUR-2013-0189

FINAL DECISION AND ORDER BY DEFAULT

On March 5, 2015, the Board of Registration in Nursing (Board) issued and duly served on Sean Keener (Respondent) an Order to Show Cause (Show Cause Order)<sup>1</sup> related to a complaint filed regarding Respondent's 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 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...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.

<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 M.G.L. c. 112, s. 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.

On March 30, 2015, Prosecuting Counsel sent notice to Respondent to file an Answer and a Request for Hearing by April 6, 2015. The notice again advised Respondent that if defaulted, the Board might enter a Final Decision and Order that assumes the truth of the allegations stated in the Show Cause Order and impose license discipline, including discipline on any right to renew.

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.

The Board has afforded Respondent an opportunity for a full and fair hearing on the allegations in the Show Cause Order as required by Massachusetts General Laws (G.L.) c. 30A, s. 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, s. 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 M.G.L. c. 30A, s. 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 Show Cause Order 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 by Default, the Board **revokes** Respondent's license to practice nursing in the Commonwealth, license No. 283043 for a minimum of three (3) years. The Board further revokes the Respondent's right to renew his license.

Respondent is hereby ordered to return any nursing license issued to him 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 himself as a Registered Nurse in Massachusetts. Practice as a Registered Nurse following the Effective Date of this Order and prior to reinstatement of licensure by the Board constitutes unlicensed practice and is grounds for civil and criminal penalties 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 he can provide documentation **satisfactory to the Board** demonstrating his 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 license reinstatement. Accordingly, Respondent shall with any petition for license reinstatement 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 he 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 licensed mental health provider which meets the requirements set forth in Attachment B 2.
- 6) if employed during the year immediately preceding Respondent's petition for license reinstatement, 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

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<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.

<sup>6</sup> If Respondent wasn't employed at all 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

- b. Certified documentation from the Rhode Island Board of Nursing verifying that the Respondent successfully met all requirements imposed by the Rhode Island Board in connection with their discipline of her nursing licenses and that her Rhode Island licenses are, or are eligible to be, reinstated in good standing and free of any restrictions or conditions.<sup>8</sup>
- 8) documentation satisfactory to the Board of her 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 May 13 2015 by the following vote:

*In favor:* A. Alley, BSN, RN; M. Beal, RN/NM; P. Gales, RN; K. Gehly, RN; S. Kelly, RN/NP; J. Killion, LPN; A. Peckham, RN, MSN; C. Simonian, Pharm.D., R.Ph.; S. Taylor, MSN, RN; C. Tebaldi, RN, MS; C. Urena, LPN

*Opposed:* None

*Abstained:* None

*Recused:* None

*Absent:* B. Levin, RN; E. Richard Rothmund

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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.

<sup>8</sup> Respondent shall also submit certified documentation from the state board of nursing of each jurisdiction in which the Respondent has ever been licensed to practice as a nurse, other than Rhode Island, 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.

The Board voted to adopt the within Final Order by Default at its meeting held on May 13, 2015, by the following vote:

*In favor:* A. Alley, BSN, RN; M. Beal, RN/NM; P. Gales, RN; K. Gehly, RN; S. Kelly, RN/NP; J. Killion, LPN; A. Peckham, RN, MSN; C. Simonian, Pharm.D., R.Ph.; S. Taylor, MSN, RN; C. Tebaldi, RN, MS; C. Urena, LPN  
*Opposed:* None  
*Abstained:* None  
*Recused:* None  
*Absent:* B. Levin, RN; E. Richard Rothmund

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 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 §§ 14. Respondent must file his appeal within thirty (30) days of receipt of notice of this Final Decision and Order by Default.

Board of Registration in Nursing

Date Issued: May 20, 2015

Rula Harb  
Rula Harb, MSN, RN  
Executive Director

Notified:

VIA FIRST CLASS AND CERTIFIED MAIL RETURN  
RECEIPT REQUESTED NO. 7012 3460 0001 7330 8326  
Sean Keener

redact

VIA FIRST CLASS AND CERTIFIED MAIL RETURN  
RECEIPT REQUESTED NO. 7012 3460 0001 7330 8333  
Sean Keener

redact

BY HAND DELIVERY

Eugene Langner, Esq.  
Prosecuting Counsel  
Department of Public Health  
Division of Health Professions Licensure  
239 Causeway Street, 5<sup>th</sup> floor  
Boston, MA 02114

## MASSACHUSETTS BOARD OF REGISTRATION IN NURSING

### 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>1</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 through 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.
- 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.

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<sup>1</sup> The current DTMC is First Lab. To contact First Lab call (800) 732-3784.

## MASSACHUSETTS BOARD OF REGISTRATION IN NURSING

- 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 written on the physician's letterhead, sent directly to the Board by the physician 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 physician 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 physician'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 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 physician 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 physician through in-person interviews with the Licensee, which are as extensive as needed for the physician 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 Physician's Opinion as to Safety and Competence. The physician'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. Physician's C.V. A copy of the physician'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) 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 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 and the 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 Physician'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 )  
Sean Keener )  
RN License No. 283043 )  
License Expired 12/14/14 )

Docket No. NUR-2013-0189

ORDER TO SHOW CAUSE

Sean Keener, 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 (RN) in the Commonwealth of Massachusetts, License No. 283043, or your right to renew such license, pursuant to Massachusetts General Laws (G. L.) c. 112, § 61 and Board regulation 244 CMR 9.03, based upon the following facts and allegations:

Factual Allegations

1. On or about July 8, 2008, the Board issued to you a license to engage in the practice of nursing as an RN in the Commonwealth of Massachusetts, License No. 283043. Your license expired on December 14, 2014, and has not been renewed to date.

*Kent Hospital*

2. On or about August 31, 2013, you acknowledged in writing to the Board that you had diverted narcotics for your own use while employed as a RN at Kent Hospital in Warwick, Rhode Island, and that you were terminated from your employment there on or about August 30, 2013.
3. You further acknowledged in the writing referenced in the preceding paragraph that you have been diagnosed with depression, post-traumatic stress disorder and substance abuse disorder, for which you underwent inpatient treatment at Arbour Fuller Hospital between about August 24 and August 29, 2013, and intensive outpatient treatment from about August 29 to September 19, 2013.
4. On or about May 21, 2014, you acknowledged in the writing to the Board that you continue to receive treatment for depression and substance abuse, including private counseling, therapy from the Providence Veterans Administration Hospital, and attendance at Alcoholics Anonymous meetings.

*Substance Abuse Rehabilitation Program*

5. On or about November 20, 2013, in connection with the allegations set forth in Paragraphs 2 through 4 above, you applied for admission to the Board's Substance Abuse Rehabilitation Program (SARP).
6. On January 13, 2014, you were sent notice by UPS Next Day Air to your address of record that you were scheduled to attend a SARP orientation meeting at the office of the Board, 239 Causeway Street, Boston, Massachusetts, at 12:00 p.m. on January 16, 2014.
7. According to UPS's Tracking Information website, you received the notice described in the preceding paragraph on January 15, 2014.
8. You failed to appear at the January 16, 2014, SARP orientation meeting.
9. On January 24, 2014, you were sent notice by first class mail to your address of record that your SARP orientation meeting had been rescheduled to 11:00 a.m. on January 31, 2014, at the office of the Board, 239 Causeway Street, Boston, Massachusetts.
10. The notice identified in the preceding paragraph was not returned.
11. You failed to appear at the January 31, 2014, SARP orientation meeting.
12. On February 20, 2014, you were sent notice by UPS Next Day Air to your address of record that you were scheduled to attend a SARP orientation meeting at the office of the Board, 239 Causeway Street, Boston, Massachusetts, at 11:00 a.m. on February 24, 2013.
13. According to UPS's Tracking Information website, you received the notice described in the preceding paragraph on February 21, 2014.
14. You failed to appear at the February 24, 2014, SARP orientation meeting.
15. On or about February 25, 2014, you were sent notice by certified mail, return receipt requested, to your address of record that you had been terminated from the SARP admission process for your failure to attend any of the orientation meetings identified in Paragraphs 6 through 14 above.
16. According to the U.S. Postal Service's Tracking website, the certified mail notice identified in the preceding paragraph was delivered on February 27, 2014.
17. Notwithstanding the termination referenced in Paragraph 15 above, on June 25, 2014, you were sent notice by first class mail to your address of record that you

were scheduled to attend a SARP orientation meeting at the office of the Board, 239 Causeway Street, Boston, Massachusetts, at 11:00 a.m. on July 3, 2014.

18. The notice identified in the preceding paragraph was not returned.
19. You failed to appear at the July 3, 2014, SARP orientation meeting.
20. On July 10, 2014, you were sent notice by UPS Next Day Air to your address of record that you were scheduled to attend a SARP orientation meeting at the office of the Board, 239 Causeway Street, Boston, Massachusetts, at 11:00 a.m. on July 17, 2014.
21. According to UPS's Tracking Information website, you received the notice described in the preceding paragraph on July 14, 2014.
22. You failed to appear at the July 17, 2014, SARP orientation meeting.
23. On or about July 18, 2014, you were sent notice by first class and certified mail to your address of record that you had been terminated from the SARP admission process for your failure to attend either of the orientation meetings identified Paragraphs 17 through 22 above.
24. According to the U.S. Postal Service's Tracking website, the certified mail notice identified in the preceding paragraph was delivered on July 21, 2014.

*Discipline in Rhode Island*

25. On or about January 23, 2015, while you had a right to renew your license to practice as an RN in Massachusetts, your right to renew your license to practice nursing in the state of Rhode Island (RI license) was denied by Order of the Rhode Island Board of Nurse Registration and Nursing Education (RI Board). A copy of the Order of the RI Board is attached hereto as Exhibit A and incorporated into this Order to Show Cause by reference.
26. The Order of the RI Board was entered after you had been notified of a hearing held on December 8, 2014, and January 12, 2015, at which you did not appear.
27. In its Order, the RI Board found as follows:
  - a. You had been employed at a hospital in Rhode Island and had diverted drugs;
  - b. You admitted to the RI Board that you had diverted drugs, and entered into an interim consent order with the RI Board in order to be evaluated for substance abuse;

- c. Your drug theft was investigated by the police and you were referred to the Attorney General's adult diversion program; and
- d. No evidence was introduced to show that you had complied with the terms of the interim consent order.

Legal Basis for Discipline

- A. Your conduct as alleged, and the resulting discipline to your RI license, warrants disciplinary action by the Board against your license to practice as a Registered Nurse pursuant to G.L. c. 112, § 61 for deceit, malpractice, and gross misconduct in the practice of the profession or for any offense against the laws of the Commonwealth relating thereto.
- B. Your conduct as alleged reflects a lack of the "good moral character" required for initial licensure as a Registered Nurse and license renewal under G.L. c. 112, § 74.
- C. Your conduct as alleged, and the resulting discipline to your RI license, warrants disciplinary action by the Board against your license to practice as a Registered Nurse pursuant to Board regulation 244 CMR 9.03 *et seq.* for violation of Standards of Conduct for Nurses, namely:
  - 1. Your conduct as alleged violates 244 CMR 9.03(5) for failing to engage in the practice of nursing in accordance with accepted standards of practice.
  - 2. Your conduct as alleged violates 244 CMR 9.03(37) for unlawfully obtaining or possessing controlled substances.
  - 3. Your conduct as alleged violates 244 CMR 9.03(47) for 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, and the resulting discipline to your RI license, warrant disciplinary action by the Board against your license to practice as a Registered Nurse pursuant to Massachusetts case law. See *Anusavice v. Board of Registration in Dentistry*, 451 Mass. 786 (2008).
- E. Your conduct as alleged, and the resulting discipline to your RI license, also constitutes unprofessional conduct and conduct which undermines public confidence in the integrity of the profession. See *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996); see also, *Kvilka 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).

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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 other 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 ordered by the Presiding Officer." Those terms may include a requirement that any copy of the transcript produced must be sent immediately 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 a written request for a hearing within twenty-one (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. Your failure to submit an Answer to the Order to Show Cause within twenty-one (21) days of receipt of the Order to Show Cause *shall result in the entry of default* in the captioned matter.

Notwithstanding the earlier filing of an Answer and/or request for a hearing, your failure to respond to notices or correspondence, your failure to appear for any scheduled status conference, pre-hearing conference or hearing dates, or your 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 nursing in the Commonwealth of Massachusetts, including any right to renew your license.

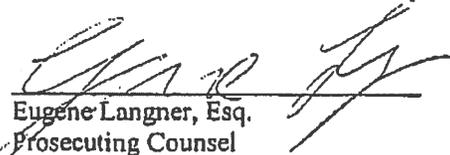
Your Answer to the Order to Show Cause and your written request for a hearing must be filed with Eugene Langner, Prosecuting Counsel, at the following address:

Eugene Langner, Esq.  
Prosecuting Counsel  
Department of Public Health  
Office of the General Counsel, 5<sup>th</sup> Floor  
239 Causeway Street  
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 Prosecuting Counsel. If you elect to undertake such an examination, then please contact Prosecuting Counsel in advance at (617) 973-0838 to schedule a time that is mutually convenient.

BOARD OF REGISTRATION IN NURSING,  
Rula F. Harb, MSN, RN  
Executive Director

By:

  
Eugene Langner, Esq.  
Prosecuting Counsel  
Department of Public Health

Date: March 5, 2015

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order to Show Cause was served upon the Respondent:

Sean Keener

redact

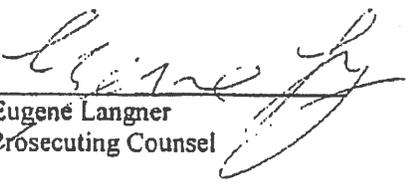
by first class mail, postage prepaid, and by Certified Mail No. 7014 0510 0001 0375 4910

Sean Keener

redact

by first class mail, postage prepaid, and by Certified Mail No. 7014 0510 0001 0375 4927

This 5<sup>th</sup> day of March, 2015.

  
Eugene Langner  
Prosecuting Counsel

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF HEALTH  
HEALTH SERVICES REGULATION  
BOARD OF NURSE REGISTRATION AND NURSING EDUCATION  
THREE CAPITOL HILL  
PROVIDENCE, RI 02908

\_\_\_\_\_ :  
In the Matter of: :

Sean Kenner,<sup>1</sup> RN 49028, :

A.H. File C13-670

Respondent. :  
\_\_\_\_\_ :

ORDER DENYING RENEWAL OF LICENSE

The above-entitled matter came before the Board of Nurse Registration and Nursing Education ("Board") pursuant to Administrative Hearing Notices<sup>2</sup> issued on November 25, 2014 and December 22, 2014 by the Board to Sean Kenner ("Respondent"). The Respondent held a license ("License") as a registered nurse in the State of Rhode Island pursuant to R.I. Gen. Laws § 5-34-1 *et seq.* A hearing was scheduled for December 8, 2014 and January 12, 2015 at which times the Respondent did not appear at hearing. Pursuant to Section 5.6 of the *Rules and Regulations Pertaining to Practices and Procedures Before the Department of Health* ("Hearing Regulation"), service may be made by hand-delivery or first class mail and service is complete upon mailing, even if unclaimed or returned, when sent to the last known address of the party. In this matter, notice was sent to the Respondent's last known address by first class and certified mail.<sup>3</sup> Since the Respondent was adequately noticed of hearing, a hearing was held. Additionally, Section 12.9 of the Hearing Regulation provides that a judgment may be entered

<sup>1</sup> The Administrative Hearing Notices spelled his name as "Kenner." However, some exhibits entered at hearing spelled the name as "Keener."

<sup>2</sup> See Department of Health's ("Department") Exhibit One (1) (Notice of Hearing dated November 25, 2014) and Department's Exhibit A (Notice of Hearing dated December 22, 2014).

<sup>3</sup> The initial notice scheduled a hearing on December 8, 2014 and the December notice scheduled a hearing on January 12, 2015. The Respondent did not appear for either hearing. See Department's Exhibits One (1) and A.



based on pleadings and/or evidence submitted at hearing by a non-defaulting party. The Board was represented by counsel.

The Board has jurisdiction over this matter pursuant to R.I. Gen. Laws § 5-34-1 *et seq.*, *Rules and Regulations for the Licensing of Nurses and Standards for the Approval of Basic Nursing Education Programs*, and the Hearing Regulation.

At the December 8, 2014 hearing, the Department entered exhibits at hearing and requested that a conditional default to revoke the Respondent's License enter so that if the Respondent did not appear at hearing scheduled for January 12, 2015, his License would be revoked. The Board entered a conditional default and the Respondent did not appear at the January 12, 2015 hearing.

Based on the pleadings and exhibits entered at hearing, the Respondent was employed at a hospital in Rhode Island and diverted drugs. See Department's Exhibits Seven (7) and Eight (8) (complaints to Department about Respondent's diversion); One (1) and A (hearing notices). The Respondent admitted to the Department that he diverted the drugs and entered into an interim consent order with the Department in order to be evaluated for substance abuse. See Department's Exhibits Six (6) (Respondent's letter to Department dated October 5, 2013); Two (2) (interim consent order). The Respondent's drug theft was investigated by the police and he was referred to the Attorney General's adult diversion program. See Department's Exhibits Four (4) (police narrative); Three (3). No evidence was introduced to show that the Respondent had complied with the terms on the interim consent order. See Department's Exhibit Five (5) (terms of compliance). At hearing, it was represented that the Respondent's License has expired.<sup>4</sup>

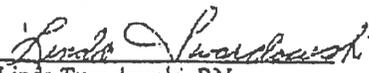
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<sup>4</sup> The Department's website, [www.health.ri.gov](http://www.health.ri.gov), indicates that the Respondent's License expired on March 1, 2014.

After hearing and based on the forgoing, the Board made the following order:

The Respondent cannot renew his License without permission of the Board.

By Order of the Board,

  
Linda Twardowski, RN  
Chair

Entered this 23 day of January, 2015.

**NOTICE OF APPELLATE RIGHTS**

PURSUANT TO R.I. GEN. LAWS § 5-34-28, APPEALS OF DECISIONS ARE GOVERNED BY THE ADMINISTRATIVE PROCEDURES ACT, R.I. GEN. LAWS § 42-35-1 *et seq.* THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF HEALTH PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS DECISION MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

**CERTIFICATION**

I hereby certify on this 23<sup>rd</sup> day of January, 2015 that a copy of the within Order and Notice of Appellate Rights was sent by first class mail, postage prepaid and registered mail, return receipt requested to Mr. Sean Kenner, ~~redact~~ and by hand-delivery to Jane Morgan, Esquire, Department of Health, Three Capitol Hill, Providence, RI 02908.

