

SUFFOLK COUNTY

Board of Registration in Nursing,
Petitioner

v.

Charlene M. Almy
License Number RN172115
License Expired: 1/12/2024
Respondent

Docket No.: NUR-2023-0023

On September 10, 2024, the Board of Registration in Nursing (“Board”) issued and duly served on Charlene M. Almy (“Respondent”), an Order to Show Cause (“Show Cause Order”) related to a complaint filed regarding Respondent’s Registered Nurse license.¹ 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.² The Show Cause Order also notified Respondent of the right to request a hearing on the allegations,³ and that any hearing request (“Request for Hearing”) was to be submitted within 21 days of receipt of the Show Cause Order.⁴ Respondent was further notified that failure to submit an Answer within 21 days “shall result in the entry of default in the above-captioned

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

matter” and, that 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.” The Show Cause Order was served via electronic mail, first-class mail, and certified mail to the Respondent’s address of record. A copy of the Show Cause Order is attached to this Final Decision. While the certified mailing was returned to the Board as “Unclaimed/Being Returned to Sender,” the first-class mailing and email is presumed to have been delivered. To date, Respondent has not filed an Answer to the Show Cause Order or a Request for Hearing.

On October 24, 2024, Prosecuting Counsel filed a Motion for Default due to Respondent’s lack of response. On November 6, 2024, due to Respondent’s lack of participation in her case and failure to respond, Administrative Magistrate Martha J. Sesnovich issued an Order of Entry of Default Against Respondent (“Default Order”). The Default Order was served via first-class mail and certified mail to the Respondent’s address of record and was not returned as undeliverable. A copy of the Default Order is attached hereto.

The Board has afforded Respondent an opportunity for a full and fair hearing on the allegations in the Show Cause Order as required by M.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 M.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 M.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).

The Board voted to adopt the within **Final Decision** by Default at its meeting held on January 8, 2025, by the following vote:

In Favor: *A. Alley, K.A. Barnes, K. Crowley, A. Joseph, L. Kelly, L. Keough, D. Nikitas, R. Reynolds, R. Sesay, and H. Underwood*

Opposed: *None*

Abstained: *None*

Recused: *None*

Absent: *J. Monagle*

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 and the foregoing discussion, the Board **REVOKES** the Respondent's license to practice as a Registered Nurse in Massachusetts, License No. RN172115 **for a period of one (1) year**. If Respondent renews said license to practice as a Registered Nurse in Massachusetts before the Effective Date of this Final Decision and Order by Default, the license will be revoked by the Board.

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 250 Washington Street, Boston,

Massachusetts 02108, 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 or 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, 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 re-licensure when she can provide documentation satisfactory to the Board demonstrating her ability to practice nursing in a safe and competent manner. With any petition for re-licensure, the Respondent shall have submitted directly to the Board:

- 1) 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 B1**.
- 2) if employed during the year immediately preceding Respondent's petition for re-licensure, have each employer from said year submit on official letterhead an evaluation reviewing Respondent's attendance, general reliability, and overall job performance;⁵
- 3) 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;⁶ and

⁵ If Respondent was not employed during this period, submit an affidavit so attesting.

⁶ 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

- 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.
- 4) 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 re-licensure.

The Board voted to adopt the within **Final Order** by Default at its meeting held on January 8, 2025 by the following vote:

In Favor: *A. Alley, K.A. Barnes, K. Crowley, A. Joseph, L. Kelly, L. Keough, D. Nikitas, R. Reynolds, R. Sesay, and H. Underwood*

Opposed: *None*

Abstained: *None*

Recused: *None*

Absent: *J. Monagle*

EFFECTIVE DATE OF ORDER

This Final Decision and Order becomes effective upon the tenth (10th) 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 to the Supreme Judicial Court pursuant to M.G.L. c. 112, § 64. Respondent must file any appeal within thirty (30) days of receipt of this notice of Final Decision and Order.

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.

Board of Registration in Nursing,

Patricia McNamess on behalf of:
Heather Cambra, BSN, RN, JD
Executive Director
Board of Registration in Nursing

Date Issued: January 21, 2025

Notified:

FIRST-CLASS MAIL AND CERTIFIED MAIL RETURN RECEIPT

REQUESTED NO.: 7020 0090 0000 1273 3299

Charlene M. Almy

[REDACTED]

VIA EMAIL:

[REDACTED]

BY INTEROFFICE MAIL/EMAIL

Patricia Blackburn, Prosecuting counsel
Department of Public Health
Office of General Counsel
250 Washington Street
Boston, MA 02108

BY INTEROFFICE MAIL/EMAIL

Martha J. Sesnovich, Esq.
Administrative Magistrate
Office of General Counsel
250 Washington Street
Boston, MA 02108

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN NURSING

Board of Registration in Nursing
Petitioner
v.
CHARLENE M. ALMY
RN License No. 172115
License Expired 01/12/2024
Respondent

Docket No. NUR-2023-0023

ORDER TO SHOW CAUSE

CHARLENE M. ALMY 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. RN 172115, 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 October 1, 1985, the Board issued to you a license to engage in the practice of nursing as an RN in the Commonwealth of Massachusetts, License No. RN172115. Your license expired on January 12, 2024.
2. While licensed as an RN in Massachusetts, on or about October 29, 2021, you admitted to sufficient facts for a finding of guilt in Newport County Superior Court, Rhode Island, in Criminal Docket No. N2-2019-0128A, Count One (Unlawful Appropriation over \$1,000).
3. While licensed as an RN in Massachusetts, on or about November 2, 2021, you were convicted in Newport County Superior Court, Rhode Island, in Criminal Docket No. N2-2019-0128A on Count One (Unlawful Appropriation over \$1,000); you received a five (5) year deferred sentence with conditions including no contact with victim and restitution of \$9,000.
4. In brief, the conduct giving rise to the charges referenced in the preceding two (2) paragraphs
[REDACTED]

Grounds for Discipline¹

- A. Your conduct as alleged, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your license to practice as an RN and/or your right to renew your license pursuant to Board regulation 244 CMR 9.03 (9) for failing to be responsible and accountable for your nursing judgments and competency.
- B. Your conduct as alleged, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your license to practice as an RN and/or your right to renew your license pursuant to Board regulation 244 CMR 9.03 (15) for failing not to abuse, neglect, mistreat, abandon, or otherwise harm a patient.
- C. Your conduct as alleged, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your license to practice as an RN and/or your right to renew your license pursuant to Board regulation 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, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your license to practice as an RN and/or your right to renew your license pursuant to G.L. c. 112, §61 for committing deceit, malpractice, gross misconduct in the practice of the profession, or any offense against the laws of the Commonwealth relating thereto.
- E. Your conduct as alleged, as well as any other evidence that may be adduced at hearing, warrant disciplinary action by the Board against your license to practice as an RN and/or your right to renew your license pursuant to G.L. c. 112, §74 for failing to be of good moral character and/or for being convicted of a felony.
- F. Your conduct as alleged, as well as other evidence that may be adduced at hearing, also constitutes unprofessional conduct and conduct that undermines public confidence in the integrity of the nursing profession as defined in *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 days of receipt of this Order to Show Cause*. You

¹ It is well-settled administrative law that due process requires that "notice must be given that is reasonably calculated to apprise an interested party of the proceeding and to afford him an opportunity to present his case;" due process does not require Prosecuting Counsel to provide a detailed description of evidence they intend to introduce at a disciplinary hearing. *Langlitz v. Board of Registration of Chiropractors*, 396 Mass. 374, 376-377 (1985). See *Lapointe v. License Board of Worcester*, 389 Mass. 454, 458 (1983) ("[d]ue process requires notice of the grounds on which the board might act rather than the evidentiary support for those grounds"). Thus, notice pleadings do not require Prosecuting Counsel to match factual allegations to grounds for discipline. Similarly, factual allegations are not necessarily an exhaustive characterization of the evidence to be adduced at a hearing.

must also submit an Answer to this Order to Show Cause in accordance with 801 CMR 1.01 (6)(d) *within twenty-one 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.

Any and all hearings and/or proceedings associated with this complaint are open to the public unless otherwise ordered.

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 twenty-one 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 twenty-one 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 an RN 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 Jessica Uhing-Luedde, Chief Administrative Magistrate, at the following address:

Jessica Uhing-Luedde, Esq.

Chief Administrative Magistrate
Department of Public Health
Office of the General Counsel
250 Washington Street, 2nd floor
Boston, MA 02108-4619

A copy of your Answer to the Order to Show Cause and your written request for a hearing must also be served upon

Patricia M. Blackburn, Esq.
Prosecuting Counsel
Department of Public Health
Office of the General Counsel
250 Washington Street, 2nd floor
Boston, MA 02108-4619

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, please contact Prosecuting Counsel in advance via e-mail at patricia.blackburn@mass.gov to schedule a time that is mutually convenient.

BOARD OF REGISTRATION IN NURSING,
Heather Cambra, BSN, RN, JD
Acting Executive Director
Board of Registration in Nursing

By: /s/ Patricia M. Blackburn
Patricia M. Blackburn, Esq.
Department of Public Health
patricia.blackburn@mass.gov

Date: September 10, 2024

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Cover Letter, Order to Show Cause, and this Certificate of Service were served upon the Licensee, CHARLENE M. ALMY, at her address of record with the Board:

[REDACTED]

by First Class Mail, postage prepaid, and Certified Mail No. 9589 0710 5270 0429 9696 26; as well as by email at [REDACTED]

this 10th day of September 2024.

vs/ Maricel Jose

Maricel Jose
For Patricia M. Blackburn, Esq.
Prosecuting Counsel