The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
250 Washington Street, Boston, MA 02108-4619

MAURA T. HEALEY
Governor

KIMBERLEY DRISCOLL
Lieutenant Governor

KATHLEEN E. WALSH
Secretary

ROBERT GOLDSTEIN, MD, PhD
Commissioner

Tel: 617-624-6000
www.mass.gov/dph

November 20, 2023

Via First Class & Certified Mail No. 7021 2720 0000 7504 2076, Return Receipt Requested
Colleen Burke
39 Grandview Avenue
Saugus, MA 01906

Via First Class & Certified Mail No. 7021 2720 0000 7504 2083, Return Receipt Requested
Michael Rawson, Esq.
Rawson, Merrigan & Litner
185 Devonshire Street, Suite 1100
Boston, MA 02110

RE: In the Matter of Colleen Burke; License No. RN215743; NUR 2018-0306

Dear Ms. Burke:

Please find enclosed the Final Decision and Order After Sanction Hearing issued by the Board of Registration in Nursing on November 20, 2023 and effective November 30, 2023. 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 5.**

Please note that as of the effective date, your license status will be suspended for a one year period followed by eighteen (18) months probation as set out in the order.

You may contact Lynn Worley, Board Counsel at (617) 952-2547, lynn.m.worley@mass.gov with any questions that you may have concerning this matter.

Sincerely,

Heather Cambra BSN, RN, JD

Heather Cambra, BSN, RN, JD
Acting Executive Director,
Board of Registration in Nursing
Encl.

cc: Jessica Uhing-Luedd, Esq. Chief Prosecutor
Nancy Rothstein, Esq., Administrative Magistrate

Commonwealth of Massachusetts
Board of Registration in Nursing

Matter of Colleen Burke **NUR 2018-0306**
RN215743:
Expires12/31/24.

FINAL DECISION AND ORDER AFTER SANCTION HEARING

On May 14, 2021, as amended on September 9, 2023, the Board of Registration in Nursing (Board) issued an Order to Show Cause on Colleen Burke's (Respondent) license to practice as a registered nurse (RN (RN215743) in the Commonwealth of Massachusetts and right to renew said license. On January 14, 2023, the parties filed a Joint Status Report Requesting Sanction Hearing and Stipulations.

The stipulations included that Licensee was employed as the Director of Nursing (DON) at Care One Peabody, MA. Respondent managed a unit for dementia patients. She was made aware of reports that a male resident was acting sexually inappropriately towards female residents in the facility.

The Respondent failed to investigate multiple reports and failed to report this conduct to the appropriate authorities. On September 7, 2018, Respondent set up a test placing a female resident near the male resident to observe his behavior, He moved towards the female resident and was redirected away from her.

The parties further stipulated that Respondent admits to violation of 244 CMR 9.03(5), (6)(a), (9), (15), (17), (46), (47); M.G.L c. 112 Sec 61; and standards of professional conduct through unprofessional conduct which undermines public confidence in the integrity of the profession. The Tentative Decision after Sanction Hearing was issued August 24, 2023, The Tentative Decision After Sanction Hearing is attached hereto and incorporated by reference.

Final Decision

The Board voted to adopt the within Final Decision After Sanction Hearing at its meeting held on November 8, 2023, by the following vote:

In favor: L. Kelly, CNP; A. Alley, MSN, RN; K. Barnes, JD, RPh., K. Crowley, DNP; M. Harty, LPN; M. McCauliffe, DNP, RN; J. Monagle, PhD, RN; D. Nikitis, BSN, RN; R. Reynolds, PhD, RN, MSN; L. Wu, MBA, RN

Opposed: None

Abstained: None

Recused: A. Joseph, MD

Absent: L. Keough, PhD, CNP; C. Norris, LPN; V. Percy, MSN, RN; A Sprague, ASN, RN

Discussion

The Board is charged with protecting the public health, safety, and welfare and to this end, the Board has broad authority to regulate the conduct of nursing professionals including the ability to sanction professionals for conduct that undermines public confidence in the integrity of the profession or engaging in behavior likely to have an adverse effect upon public health, safety or welfare in violation of 244 CMR 9.03(47). See *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). The Board has authority to sanction nurses for conduct which undermines public confidence in the profession's integrity. See *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996). Commonwealth law relating to nursing practice in violation of G.L. c. 112, § 61 ("Section 61"); failing to be of "good moral character" required for initial licensure as an RN and license renewal under G.L. c. 112, § 74 and the common law prohibition against engaging in conduct undermining public confidence in the profession's integrity.

Respondent accepts responsibility for exercising poor judgment and management at CareOne during the events in the OTSC. Respondent acknowledges that she allowed the toxic work environment to color how she handled the reports regarding Patient A, including the incident which occurred on September 7, 2018. Respondent agrees that she should have reported at least the September 7 incident to the proper authorities – which she failed to do, and that her investigation could have started sooner and been more in depth. Respondent testified that prior to the events called out in the OTSC, she had a long and unblemished career as a nurse. In the five years since these events, Respondent has been gainfully employed, without interruption, as a nurse, and there have been no additional complaints made against her.

However, Respondent has been brought before the Board due to a pattern of conduct where she repeatedly failed to protect the physieal and mental wellbeing of multiple patients entrusted to her care. The multiple reports about Patient A each described abusive conduct involving female patients in the dementia unit. Respondent's difficult work environment, including her problems with the staff in her unit, did not relieve her of her responsibilities to protect her patients. Respondent admitted that she failed to report these incidents to the required state and federal authorities.

This Board has previously disciplined nurses for engaging in unprofessional conduct and conduct that undermines public confidence in the integrity of the profession *In the Matter of Laura Ryder*, NUR-2018-0266 (June 25, 2021). The Board has also disciplined nurses for failure to report an event to DPH, as required by law. *In the Matter of Janet Catton*, NUR-2016-0158 (CA April 3, 2019). *In the Matter of Deirdre Hiam*, NUR-2017-0095 (FDO June 25, 2021), the Licensee, a DON, was disciplined for failure to properly supervise staff.

Order

Based on its Final Decision, the Board orders that Respondent's license to practice as a Registered Nurse in Massachusetts (RN) be SUSPENDED for one (1) year, with standard reinstatement terms, followed by eighteen (18) months' PROBATION.
During the Probationary Period, the Respondent shall comply with all of the following requirements to the Board's satisfaction:

a. refrain from the practice of nursing in any of the following employment settings during the Probationary Period:
Settings where structured, consistent on-site supervision is not in place including but not limited to,

i. Home care agencies or private home care,
ii. Travel nurse agencies, or
iii. Staffing agencies

b. Comply with all laws and regulations governing the practice of nursing, and not engage in any continued or further conduct such as that set forth in the Order to Show Cause.

c. Notify the Board in writing within ten (10) days of each change in her name and/or address.

d. Timely renew her license to practice nursing.

e. Respond to inquiries from Board staff in a timely manner.

f. Disclose the terms of this Order to the Program Administrator of any Nursing Education Program at which she is enrolled during the Probationary Period.

g. Maintain active employment (Active Practice Requirements) in a position that requires a nursing license, in a facility setting where the Respondent receives consistent, on-site supervision by a qualified licensed nurse for a minimum average of twenty (20) hours per week throughout the Probationary Period.

h. A qualified licensed nurse is defined as a nurse who:

(1) possesses a Massachusetts6 nursing license in good standing or authority to practice under federal law, or both.

(2) is employed in a supervisory role.

(3) possesses a minimum of one-year full-time experience in nursing, or its equivalent, within the last five years.

(4) is educationally prepared at or above the level of the Respondent; and

(5) has no open complaints with the Board and no open criminal matters

i. Review this Order with each of her nursing supervisors, and arrange for each nursing supervisor to submit directly to the Board: a completed and signed "Supervisor Verification Form" (Form 1), provided with this Order, within thirty (30) days of:

(1) The effective date; and,

(2) any subsequent employment commenced during the Probationary Period and quarterly written reports, using the "Supervision Report Form" (Form 2) provided with this Order attesting to the quality of the Respondent's nursing practice, reliability and attendance and specifically addressing Respondent's documentation practice including any errors and incidents. The Board may take action in the event that any quarterly report reveals a practice issue the Board deems significant.

j. Within 30 days of the Effective Date, notify the Board in writing if the Respondent is not employed in accordance with paragraph g;

k. Submit documentation that they have successfully completed the following continuing education[1]:

i. Three (3) hours on Legal and Ethical Aspects of Nursing.

ii. Three (3) hours on Critical Thinking and Judgment in Nursing Practice.

iii. Three (3) hours on Patient's Rights.

l. Notify the Board in writing within seven (7) days of any change in the Respondent's employment status, including each change in Employer, each resignation or termination, and the name, address, and telephone number of each new Employer.

m. Notify the Board in writing within seven (7) days of any complaint filed against her nursing license in any jurisdiction in which she holds such a license.

The Board voted to adopt this Order at its meeting held on November 8, 2023

[1] These continuing education courses must be *in addition to* any contact hours required for license renewal. They may be taken as home study or as correspondence course, *provided that* they meet the requirements of Board Regulations at 244 CMR 5.00, Continuing Education.

In favor: L. Kelly, CNP; A. Alley, MSN, RN; K. Barnes, JD, RPh., K. Crowley, DNP; M. Harty, LPN; M. McCauliffe, DNP, RN; J. Monagle, PhD, RN; D. Nikitis, BSN, RN; R. Reynolds, PhD, RN, MSN; L. Wu, MBA, RN

Opposed: None

Abstained: None

Absent: L. Keough, PhD, CNP; C. Norris, LPN; V. Percy, MSN, RN; A Sprague, ASN, RN

Recused: A. Joseph, MD

EFFECTIVE DATE OF ORDER

This Final Decision and Order becomes effective upon the tenth (10th) day from the date 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 of Registration in Nursing,

Heather Cambra BSN, RN, JD

Heather Cambra, BSN, RN, JD

Acting Executive Director

Board of Registration in Nursing

Issue Date: 11/20/23

Effective Date 11/30/23

Notified:

Via First Class & Certified Mail No. 7021 2720 0000 7504 2076, Return Receipt Requested
Colleen Burke
39 Grandview Avenue
Saugus, MA 01906

Via First Class & Certified Mail No. 7021 2720 0000 7504 2083, Return Receipt Requested
Michael Rawson, Esq.
Rawson, Merrigan & Litner
185 Devonshire Street, Suite 1100
Boston. MA 02110

Via Interoffice Mail

Jessica Uhing-Luedd, Esq.,
Chief Prosecutor
OGC
250 Washington St., 2nd Floor
Boston, MA 02108

Nancy Rothstein, Esq., Esq.
Administrative Magistrate
OGC
250 Washington St., 2nd Floor
Boston, MA 02108

Commonwealth of Massachusetts
Department of Public Health
Bureau of Health Professions Licensure
Board of Registration in Nursing
239 Causeway Street • Boston, Massachusetts 02114

SUPERVISOR VERIFICATION, AND AGREEMENT TO MONITOR PRACTICE AND PROVIDE PERIODIC REPORTS TO THE BOARD OF REGISTRATION IN NURSING

Name of Nurse on Probation _____

License Type and No. _____ Docket No(s). _____

Effective Date of the Probation Agreement or Order: _____

Length of Probation (specified in Agreement or Order): _____

Nurse's Date of Employment: _____ Nurse's Job Title: _____

Employer Name and Address: _____

_____

I, _____ (print supervisor's full name) on _____ (insert date) reviewed a signed copy of the Probation Agreement (Agreement) or Order between _____ (insert nurse's name) and the Board of Registration in Nursing (Board). I hereby agree that I will monitor and evaluate this nurse's practice as specified in the Agreement or Order, and will provide written reports to the Board on the Supervision Report form provided by the Board at the intervals required by the Agreement or Order.

I also agree to promptly notify the Board's Probation Compliance Officer if the nurse resigns or is terminated from employment.

I further certify that I am a RN / LPN (circle one), have completed at least one (1) year of clinical nursing practice, and that I do not have any open administrative or criminal complaint by any Board of Nursing.

SUPERVISOR'S SIGNATURE _____ Date: _____

_____

(Print/Type: Name and Title of Supervisor completing this form)

Supervisor's License Type and No.: _____ Supervisor Phone No.: _____

PLEASE NOTE CAREFULLY: This completed form must be mailed *with* the supervisor's signed cover letter written on the facility's letterhead directly to: Probation Compliance Officer
DPH – BHPL, Board of Registration in Nursing
239 Causeway Street, 5th Floor

FORM 1- Manual Version
Final 6/14/07
Revised 8/14/017, 05/09/18
Corrected 9/5/2019

Commonwealth of Massachusetts
Department of Public Health
Bureau of Health Professions Licensure
Board of Registration in Nursing
239 Causeway Street • Boston, Massachusetts 02114

SUPERVISION REPORT FOR NURSES ON PROBATION WITH THE BOARD OF REGISTRATION IN NURSING

(Please review the nurse's Probation Agreement or Order and complete this evaluation of the nurse's practice)

Nurse's Name: _____ Docket No.: _____

License Type and No.: _____ Expiration Date _____

Nurse's Job Title: _____

Employer Name and Address: _____

Time period covered by this supervision report: Start Date: _____ to End Date: _____

Rate the following and explain any "Does Not Meet" ratings (use the "Comments" column and if needed the back of this form or include on supervisor's signed cover letter on facility letterhead).

Quality being rated	Does Not Meet	Meets	Comments
Organizes and plans work effectively	☐	☐	
Completes assignments	☐	☐	
Works as a team member	☐	☐	
Communicates effectively	☐	☐	
Seeks guidance and supervision appropriately	☐	☐	
Interacts with patients in a therapeutic manner	☐	☐	
Demonstrates problem solving ability	☐	☐	
Manages stressful situations appropriately	☐	☐	
Makes timely and appropriate nursing assessments	☐	☐	
Makes appropriate nursing interventions	☐	☐	
Delegates nursing care activities appropriately	☐	☐	
Removes, handles, wastes, and accounts for the whereabouts of, medications appropriately	☐	☐	
Documents controlled substances and medication administrations accurately and completely	☐	☐	
Documents nursing care and interventions accurately and completely	☐	☐	
Other practice skill(s) specified by Probation Agreement or Order	☐	☐	

SUPERVISION REPORT FOR NURSES ON PROBATION WITH THE BOARD OF REGISTRATION IN NURSING (continued)

The nurse HAS ☐ HAS NOT ☐ **(please choose one and do not leave any blanks)** worked an average of at least twenty (20) hours per week during the time period covered by this report.

SUPERVISION

How frequently is the nurse supervised?_____

How is supervision provided?_____

Have there been any incidents involving the nurse requiring counseling, conference, oral/written warnings since last report? If yes, please explain and attach copies of all relevant documents.

_____

_____

How often are the nurse's patient records reviewed?_____

Does this nurse have any other nursing practice issues? Explain._____

_____

ADDITIONAL COMMENTS are appreciated

(If needed, please use the back of this form or include on supervisor's signed cover letter on facility letterhead)

****

Please call the Probation Compliance Officer at (617) 973-0863 to discuss any concerns or for clarification regarding the nurse's probation.

SUPERVISOR'S SIGNATURE: _____DATE SIGNED_____

_____

(Print/Type: Name and Title of Supervisor completing this form)

Supervisor's License Type and No.:_____ Supervisor Phone No.:_____

PLEASE NOTE CAREFULLY:

This fully completed form must be mailed *with* the supervisor's signed cover letter written on the facility's letterhead directly to: Probation Compliance Officer
DPH – DBPL, Board of Registration in Nursing
239 Causeway Street, 5th Floor
Boston, MA 02114