

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN NURSING

In the Matter of
Jennifer Barr
RN License No. 2291307
License Expires 9/3/22

Docket No. NUR-2019-0215

FINAL DECISION AND ORDER

Procedural History

On March 8, 2021, the Board of Registration in Nursing ("the Board") issued an *Order to Show Cause* ("OTSC") to the Respondent, alleging that while she was working as a Registered Nurse at Bay State Medical Center in Springfield, MA, on various dates between January of 2019 and August of 2019, [REDACTED]

[REDACTED]
Respondent failed to document her removal, administration or wastes of said controlled substances.

The OTSC asserts that the Respondent's conduct constitutes a violation of accepted standards of nursing practice and Board regulations at 244 CMR 9.03(5) (failing to engage in the practice of nursing in accordance with accepted standards of practice); 244 CMR 9.03 (31), (knowingly falsifying, or attempting to falsify, any documentation or information related to any aspect of licensure as a nurse, the practice of nursing, and the delivery of nursing services); 244 CMR 9.03(35) (failing to maintain the security of controlled substances that were under your responsibility and control); 244 MR 9.03 (37) (unlawfully obtaining or possessing controlled substances); 244 CMR 9.03(39) (failing to document the handling, administration, and destruction of controlled substances in accordance with all federal and state laws and regulations and in a manner consistent with accepted standards of nursing practice); 244 CMR 9.03(44)

(failing to make complete, accurate, and legible entries in all records required by federal and state laws and regulations and accepted standards of nursing practice); regulation 244 CMR 9.03(47) (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); M.G.L. c.112, § 61(deceit, malpractice, gross misconduct, offense against the laws of the Commonwealth), and based on caselaw for conduct that undermines the integrity of the profession.

In addition to stating the allegations against Respondent, the OTSC notified Respondent that an Answer to the OTSC ("Answer") was to be submitted within 21 days of receipt of the OTSC.¹ The OTSC also notified Respondent of the right to request a hearing on the allegations,² and that any hearing request ("Request for Hearing") was to be submitted within 21 days of receipt of the OTSC.³ 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 [Order to Show Cause] 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 OTSC is attached to this Final Decision and Order and is incorporated herein by reference.

Respondent filed her Answer to the OTSC and on July 8, 2021, Respondent and Prosecuting Counsel jointly filed a "*Joint Status Report Requesting Sanction Hearing*" in which Respondent admitted to all allegations contained in the OTSC. The Board held a Sanction Hearing⁴ before Administrative Magistrate Diane Barry ("the Magistrate") on December 16, 2021. Magistrate Barry issued her *Tentative Decision After Sanction Hearing* ("*Tentative Decision*") on March 30, 2022. The Board hereby adopts the *Tentative Decision* in full as its Final Decision, which is attached hereto and incorporated herein by reference, including all findings of fact, rulings of law and credibility determinations.

¹ In accordance with 801 CMR 1.01(6)(d)(2).

² Pursuant to M.G.L. c. 112, § 61.

³ Respondent was also notified that failure to timely submit a Request for Hearing would constitute a waiver of the right to a hearing.

⁴ The hearing was held via telephone due to the ongoing social distancing requirements imposed by the COVID-19 pandemic.

Barr, J.

NUR-2019 0215

The Board voted to adopt the within Final Decision at its meeting held on May 11, 2022, by the following vote:

In Favor: G. Conlin, DNP, RN; K. Crowley, DNP, RN; J. Kaneb, MBA; L. Kelly, DNP, CNP, RN; L. Keogh, PhD, CNP, RN; C. LaBelle, MSN, RN; D. Nikitas, BSN, RN; V. Percy, MSN; R. Reynolds, PhD, MSN, RN; A. Sprague, BS, RN. *Opposed:* None; *Abstained:* None; *Recused:* None; *Absent:* K. A. Barnes, JD, RPh, L. Wu, MBA, RN.

Rationale for Sanction

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. *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). In the instant matter, the Respondent, while working as a registered nurse at Bay State Medical Center in Springfield, MA, [REDACTED]

This Board has previously suspended nurses for engaging in conduct like that of the Respondent. Most recently, in September 2021, the [REDACTED]

[REDACTED] *See In the Matter of Peter Holt*, Board of Registration in Nursing Docket Number NUR-2017-0298, Final Decision and Order; *See also In the Matter of Presley Eze*, Board of Registration in Nursing Docket Number NUR-2017-0088 (FDO by Default, June 2019) ([REDACTED]) [REDACTED] in Connecticut and Connecticut Board summarily suspended his CT license).

The unlawful use of controlled substances reflects conduct that is the antithesis of the

type of life fostering behavior that is the foundation of the nursing profession. Moreover, a nurse's abuse of controlled substances calls into serious question his or her ability to practice nursing in a safe and competent manner. Registered Nurses constantly handle and administer controlled substances to the patients with whose care they are entrusted. For a multitude of reasons, the safety and well-being of such patients is at risk when a nurse's capacity to properly handle and administer controlled substances may be compromised by the illicit use of drugs. It is imperative that patients and their families feel assured that they can trust and rely upon the nurses who provide their care to do so responsibly, safely, and competently. See *In the Matter of Roberta Bolduc*, RN-04-284 (December 2006).

([REDACTED]). See also *In the Matter of Holly Hubbard*, NUR-2012-0011 (September 2012). In *Hubbard*, the Board revoked the expired license of the Respondent based on out-of-state discipline. While Respondent held a current Massachusetts nursing license, the Florida Board of Nursing accepted the Respondent's Voluntary Surrender of Hubbard's license after she [REDACTED]. In the instant matter, Respondent's diversion of a controlled substance is not in dispute, [REDACTED]

[REDACTED]
Consequently, the Board orders that Respondent provide evidence of her ability to practice nursing in a safe and competent manner.

ORDER

Based on its Final Decision, the Board **SUSPENDS, for three years**, Respondent's license to practice as a Registered Nurse in Massachusetts ("RN"), RN License No. 2291307. The Board further suspends 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, the Board Suspends said license.

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 five (5) 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.

Respondent may petition the Board for relicensure in writing at such time as she is able to provide documentation satisfactory to the Board that demonstrates her ability to practice nursing in a safe and competent manner. Such documentation shall include, but may not be limited to, the following:

- a. Evidence of completion of all continuing education required by Board regulations for the two (2) renewal cycles immediately preceding the date on which the Licensee submits her petition ("petition date").
- b. A performance evaluation sent directly to the Board from each of the Licensee's employers, prepared on official letterhead that reviews the Licensee's attendance, general reliability, and specific job performance during the year immediately prior to the petition date.⁵
- c. Written verification sent directly to the Board from each of the Licensee's medical care providers, which meets the requirements set forth in **Attachment B1**.

⁵ If the Licensee has not been employed during the year immediately prior to the petition date, she shall submit an affidavit to the Board so attesting.

- d. Authorization for the Board to obtain a Criminal Offender Record Information (CORI) report of the Licensee conducted by the Department of Criminal Justice Information Services (DCJIS).
- f. Documentation that the Licensee has completed, at least one (1) year prior to the petition date, all requirements imposed upon her in connection with all criminal and/or administrative matter(s) arising from, or related to, the conduct identified in Paragraph 2⁶. Such documentation shall be certified and sent directly to the Board by the appropriate court or administrative body and shall include a description of the requirements and the disposition of each matter.
- g. Certified documentation from the state board of nursing of each jurisdiction in which the Licensee 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
- h. The Licensee shall submit *either* a substance abuse (addictionologist) evaluation, prepared within thirty (30) days of the petition date and sent directly to the Board, which meets the requirements set forth in **Attachment B3**, and verifies that the Licensee does not have and has never had any type of substance abuse, dependency or addiction problem, *or* the following documentation of the Licensee's stable and fully sustained recovery from substance abuse, dependency and/or addiction for three (3) years immediately prior to the petition date, all to the Board's satisfaction:
 - i. The results of random observed urine tests for substances of abuse sent directly to the Board and collected from the Licensee according to the conditions and procedures outlined in **Attachment A**, no less than fifteen (15)

⁶ If there have been no criminal or administrative matters against the Licensee arising from or in any way related to the conduct identified in Paragraph 2, the Licensee shall submit an affidavit so attesting.

times per year during the two (2) years immediately preceding the petition date. All such results are required to be negative.

- ii. Documentation that the Licensee has obtained a sponsor and has 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 the petition date. This documentation must include a letter of support from the Licensee's sponsor and signatures verifying the required attendance.
- iii. Documentation prepared within thirty (30) days of the petition date and sent directly to the Board from a licensed mental health provider verifying that the Licensee has regularly attended group or individual counseling or therapy, or both, conducted by the mental health provider. Such documentation shall specify the frequency and length of the therapy and/or counseling and shall include a summary of the Licensee's progress in therapy and specific treatment recommendations for the Licensee's sustained recovery from substance abuse, dependency, and addiction.

The Board's approval of Respondent's petition for license reinstatement may be conditioned upon, and immediately followed by, Probation of Respondent's nursing license and authorization for a period of time, as well as other restrictions and requirements that the Board may then determine are reasonably necessary in the best interests of the public health, safety, and welfare.

The Board may choose to relicense Respondent if the Board determines that relicensure is in the best interests of the public at large.

The Board voted to adopt the within Final Order at its meeting held on May 11, 2022, by the following vote:

In Favor: G. Conlin, DNP, RN; K. Crowley, DNP, RN; J. Kaneb, MBA; L. Kelly, DNP, CNP, RN; L. Keogh, PhD, CNP, RN; C. LaBelle, MSN, RN; D. Nikitas, BSN, RN; V. Percy, MSN; R. Reynolds, PhD, MSN, RN; A. Sprague, BS, RN. *Opposed:* None; *Abstained:* ; *Recused:* None; *Absent:* A. Alley , MSN, RN; K. A. Barnes, JD, RPh; L. Wu, MBA, RN.

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,

Patricia McNamee on behalf of:

Claire L. MacDonald DNP, RN

Executive Director

Board of Registration in Nursing

Date Issued: May 23, 2022

Notified:

***By first-class and certified mail no. 7021 1970 0002 1578 0611,
Return Receipt Requested***

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