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

September 27, 2023

By first-class and certified mail no. 7022 2410 0001 6851 6762
Return Receipt Requested
Richard M. Haley, Esq.
Paolini & Haley, PC
400 Trade Center, Suite 5900
Woburn, MA 01801

RE: Matter of Lawanda Cox, LPN90839
NUR 2018-0294

Dear Mr. Haley:

Please find enclosed the **Final Decision and Order** issued by the Board of Registration in Nursing on September 27, 2023, and effective October 7, 2023. This constitutes full and final disposition of the above-referenced complaint, as well as the final agency action of the Board. Your client's appeal rights are noted on page 5.

Please note that as of the effective date, your client's license status will change to **Probation**. It will remain in **probationary** status until the Board notifies Ms. Cox of a change in license status in accordance with the terms of the order.

Please direct all questions, correspondence and documentation relating to probation requirements to the attention of Kimberly Jones, Probation Compliance Officer at the address above. You may also contact Ms. Jones at (617) 973 – 0863.

You may contact Lynn Worley, Board Counsel at (617) 952-2347 with any questions that you may have concerning this matter.

Sincerely,

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

cc. Patricia Blackburn, Esq., Prosecuting Counsel
Karen Gray-Carruthers, Esq., Administrative Magistrate

Commonwealth of Massachusetts
Board of Registration in Nursing

Matter of Lawanda Cox **NUR 2018-0294**
LPN90839:
Expires 5/12/25

FINAL DECISION AND ORDER

In an Order To Show Cause dated March 22, 2020, the Massachusetts Board of Registration in Nursing ("Board") asked why it should not take action against Lawanda Cox's ("Respondent") Licensed Practical Nurse (LN) license, or right to renew such license. The OTSC alleges Respondent on multiple occasions made errors and/or omissions concerning medication documentation and/or administration and was responsible for certain medications. An adjudicatory hearing was conducted March 15-16, 2021 (Hearing). A Tentative Decision was issued on August 31, 2022. The Tentative Decision is attached hereto and incorporated by reference.

Respondent filed Objections to the Tentative Decision on September 30, 2022. On November 16, 2022, the Board of Registration in Nursing (Board) issued Ruling on Respondent's Objections to the Tentative Decision (Ruling) and remanded the case back to the Magistrate to make further findings. Respondent objected that only the front of the MAR documents was produced and argued that the back of these pages potentially contained exculpatory evidence. The Board remanded the case to the Magistrate and ordered the production of complete documents (front and back) for review by the parties. The documents were produced, and no exculpatory information was discovered. Subsequently, the Tentative Decision was issued on April 20, 2023.

The Board voted to adopt the within Final Decision at its meeting held on September 13, 2023, by the following vote:

In favor: A. Alley, MSN, RN; K. Crowley, DNP; M. Harty, LPN; A. Joseph, MD; Linda Kelly, CNP; L. Keough, PhD, CNP; D. Nikitis, BSN, RN; C. Norris, LPN, V. Percy, MSN, RN; R. Reynolds, PhD, RN, MSN

Opposed: None

Abstained: None

Recused: None

Absent: K. Barnes, JD, RPH; A Sprague, ASN, RN; Lisa Wu, MBA, RN

Discussion

The OTSC alleged 9 instances of failure to document administration or waste of controlled substances and three Tramadol tabs were missing at the end of Respondent's shift. The OTSC states that these instances occurred between October 26, 2018, and November 8, 2018. The Magistrate ruled that failure to document administration or waste was proved for 5 instances. Additionally, medication count conducted at the end of her double shift at 7am on November 8, 2018, noted three Tramadol were missing. Four instances were not proved.

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). 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).

On November 8, 2018, at approximately 6:50 a.m., Respondent left the medication cart unattended and unlocked. At approximately 7:15 a.m., Respondent counted the medications in the cart with the nurse coming on duty and there were three (3) 50 mg Tramadol tablets missing. On the morning of November 8, 2018, the DON questioned the Respondent regarding the three (3) missing 50mg Tramadol tablets; the Respondent was not able to provide an explanation. Extended Care per protocol notified the Amherst Police Department of the missing Tramadol; an officer was dispatched to Extended Care to investigate. After completing the investigation, the investigating officer determined he would not be charging Respondent for the three missing Tramadol pills and requested the case be closed. Respondent was relieved of her duties at Extended Care. Respondent was ordered to and took a drug screening test. [redacted]

Respondent testified the cart was her responsibility. Respondent provided a written, signed statement regarding the three missing Tramadol tablets including the following, "I am fully aware of the fact that it's my responsibility to ensure the count is correct before taking the cart. I honestly don't know how this incident occurred." The Magistrate determined it was proven, Respondent is responsible for three (3) 50 mg Tramadol tablets unaccounted-for from the medication cart on November 8, 2018, at approximately 7:15 a.m.

It was proven at the Hearing that controlled substances were involved in five instances of failure to document the handling, administration, and/or destruction of each of these controlled substances in a manner consistent with accepted standards of nursing practice and Three (3) Tramadol Tablets were missing from the medication cart in violation of 244 CMR 9.03(39). The violations of 244 CMR 9.03 (5), (35), (39), (44) and (47) as described above each warrant discipline under Section 61 as an offense against laws of the Commonwealth." *Giroux v. Board of Dental Examiners*, 322 Mass 251, 252 (1948).

Respondent sought out an evaluation to "rule out taking drugs" after a Board proposed consent order included license suspension, indefinite drug monitoring and entry into a drug rehabilitation

program. (Respondent at 59-61) A March 13, 2020 Psychiatric and Substance Abuse Evaluation for Respondent was prepared by Alison M. Sheridan, MD. Dr. Sheridan is Board Certified in both General Psychiatry (1989) and Addiction Psychiatry (1992, 2003 and 2013). Dr. Sheridan opined:

> Based on the review of above documents, review of medical history, prescription records, addiction assessment instrument results, and a detailed interview, in my opinion, Lawanda has never had and does not have a substance use disorder. I find no evidence of disabling psychiatric illness, nor of any impairment in judgment, reliability, or stability that might impact negatively on her ability to safely practice nursing.

This Board has previously disciplined nurses for engaging in conduct similar to that of the Respondent. See, *In the Matter of Dawn Leach*, Docket No. NUR-2019-0071 She failed to properly document her handling of controlled substances in her custody. Further, she failed to write nurses' notes for certain patients in her care. The Board ordered Respondent's license to practice as a Registered Nurse in Massachusetts ("RN") be placed on PROBATION for a period of six (6) months. See also, *In the Matter In the Matter of Patti Turner*, Docket No. NUR-2015-001, wherein the Board ordered that Respondent's license be placed on Probation for six months because she stipulated that she failed to document required information in patients' medical records and that she documented inaccurate information in patients' medical records, in violation of 244 CMR 9.03(5), (15), (31), (38), (39), (44), and (47)). See also, *In the Matter of John Handren*, Docket No. NUR-2011-0265, *In the Matter of Dawn Leach*, D. NUR-2019-0071 Page 4 of 8 July 11, 2014, wherein the Board ordered a Stayed Suspension and Probation for one year with remedial CEUs and monitored practice because Respondent's conduct violated 244 CMR 9.03 (5), (35), (39), (44), (46), and (47)).

ORDER

Based on its Final Decision, the Board orders that Respondent's license to practice as a Licensed Practical Nurse in Massachusetts (LN) be placed on PROBATION for a period of one (1) year. commencing with the date on which the Board signs this Order (Effective Date) 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, or
ii. Travel nurse 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 Massachusetts 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. 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 ii. 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. Complete the Active Practice Requirements within a period up to a maximum of double the length of the Probationary Period.

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.

n. Submit documentation that she has successfully completed the following continuing education within ninety (90) days after the Effective Date:

i. Three (3) contact hours of continuing education on the topic of "Medication Administration", and

ii. Three (3) contact hours of continuing education on the topic of "Administration and Documentation of Controlled Substances.

The Board voted to adopt this Order at its meeting held on September 13, 2023

In favor: A. Alley, MSN, RN; K. Crowley, DNP; M. Harty, LPN; A. Joseph, MD; Linda Kelly, CNP; L. Keough, PhD, CNP; D. Nikitis, BSN, RN; C. Norris, LPN, V. Percy, MSN, RN; R. Reynolds, PhD, RN, MSN

Opposed: None

Abstained: None

Absent: K. Barnes, JD, RPH; A Sprague, ASN, RN; Lisa Wu, MBA, RN

Recused: None

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,

Issued:
9/27/2023

Patricia McNamee on behalf of

Heather Cambra, BSN, RN, JD

Acting Executive Director

Board of Registration in Nursing

Notified:

By first-class and certified mail no. 7022 2410 0001 6851 6762, Return Receipt Requested
Richard M. Haley, Esq.
Paolini & Haley, PC
400 Trade Center, Suite 5900
Woburn, MA 01801

By interoffice mail
Patricia Blackburn, Esq.
Prosecuting Counsel
Department of Public Health
250 Washington Street
Boston, MA 02108

By interoffice mail
Karen Gray Carruthers, Esq.
Administrative Magistrate
Department of Public Health
250 Washington Street
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