

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN NURSING

In the Matter of
Melissa Eaton
RN/CNP License No. 276526
License Expires November 30, 2022

Docket No. NUR-2020-0112

FINAL DECISION AND ORDER

Procedural History

On June 2, 2021, the Board of Registration in Nursing ("the Board") issued an *Order to Show Cause* ("OTSC") to the Respondent, alleging that the Respondent violated laws, regulations and standards of practice related to prescriptive practice. Specifically, she continued to issue prescriptions after her Advanced Practice Certification expired and after she left employment at CleanSlate Outpatient Addiction Medicine, ("CleanSlate") using CleanSlate as her address of record on her Massachusetts Controlled Substances Registration (MCSR).

The *OTSC* asserts that the Respondent's conduct constitutes a violation of accepted standards of 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(9) (failing to be responsible and accountable for her nursing judgments, actions, and competency); 244 CMR 9.03(10) (failing to only perform acts within the scope of nursing practice as defined in M.G.L. c. 112, § 80B) and 244 CMR 244 CMR 9.03(47)(engaging in conduct that has an adverse effect on public health, safety and welfare). Further, Respondent's conduct violates 244 CMR 9.04(2) (engaging in advanced practice nursing, or in any way representing that Respondent was authorized to engage in such practice, after the effective date of the surrender, suspension, or revocation of such authorization by the Board, or after the voluntary relinquishment of such authorization by the Board); 244 CMR 9.04

(3)(a), (failing to comply with 244 CMR 4.00 governing prescriptive practice by an APRN and with all federal and state laws and regulations governing prescriptive practice and the handling of controlled substances); 244 CMR 9.04(4) (failing to hold current professional advanced practice certification and to submit documentation satisfactory to the Board of current certification with each application for RN license renewal); as well as violations of M.G.L. c.112, § 61(engaging in deceit, malpractice, gross misconduct, offense against the laws of the Commonwealth), and based on caselaw for conduct that undermines the integrity of the profession.¹

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.² The OTSC 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 OTSC.⁴ 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.

On July 26, 2021, prior to obtaining counsel, Respondent filed her *Answer* to the OTSC. On February 16, 2022, Respondent and Prosecuting Counsel jointly filed a “*Stipulation of Facts*.” On March 31, 2022, Administrative Magistrate Diane Barry (“the Magistrate”) granted the Parties’ motion to cancel the Hearing on Sanctions and to proceed “on the papers.” Consequently, no in-person or virtual hearing was held. On April 20, 2022, the Magistrate submitted *Tentative Decision After Sanction Hearing Process* (“*Tentative Decision*”). The Board adopts the *Tentative Decision*, including all findings of fact and conclusions of law as its Final Decision. The *Tentative Decision* is **attached hereto** and incorporated herein by reference.

¹ 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).

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

³ Pursuant to M.G.L. c. 112, § 61.

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

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The Board voted to adopt the within Final Decision at its meeting held on August 24, 2022, by the following vote:

In Favor: A. Alley, MSN, RN, K. A. Barnes, JD, RPh, L. Kelly, DNP, CNP, RN, L. Keough, PhD, CNP, RN, V. Percy, MSN, R. Reynolds, PhD, MSN, RN, A. Sprague, BS, RN, L. Wu, MBA, RN; *Opposed:* None; *Abstained:* J. Monagle PhD, RN; *Absent:* K. Crowley, DNP, RN, D. Nikitas, BSN, 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. *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 case, the Board determined that the Respondent issued prescriptions for controlled substances when she was not authorized to do so because her Advanced Practice certification had expired. Furthermore, after the Respondent left her employment at CleanSlate, she continued to use CleanSlate as her address of record on her Massachusetts Controlled Substances Registration and issued prescriptions to a former patient.

This Board has previously suspended nurses for engaging in conduct similar to the Respondent. *See In the Matter of Debra Brinkman*, Docket Nos. RN-08-068; NUR-2009-0010 & NUR-2009-0132. (Final Decision and Order of Suspension for 5 years of Licensee's RN license and APRN authorization because Licensee continued to issue prescriptions for controlled substances after her Advanced Practice certification expired and practiced outside the scope of her certification.) *See also, In the Matter of Martha P. DiMilla*, Docket No. NUR-2020-0058. (Consent Agreement for Suspension followed by Probation with particular continuing education

required because the Licensee wrote prescriptions for her family member without the knowledge of her supervising physician and Licensee failed to create and maintain appropriate records).

ORDER

Based on its Final Decision, the Board **SUSPENDS, for an indefinite period,** Respondent's license to practice as a Registered Nurse ("RN") with Advanced Practice Authorization in Massachusetts, RN License No. 276526. 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 date⁵.
- 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**.
- 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).
- e. 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 the *OTSC*⁶. 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.
- f. 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/APRN authorization status and discipline history, and verifying that her nursing license/APRN authorization is, or is eligible to be, in good standing and free of any restrictions or conditions.
- g. Certified documentation of a current APRN certification.

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.

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.

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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 August 24, 2022, by the following vote:

In Favor: A. Alley, MSN, RN, K. A. Barnes, JD, RPh, L. Kelly, DNP, CNP, RN, L. Keough, PhD, CNP, RN, V. Percy, MSN, R. Reynolds, PhD, MSN, RN, A. Sprague, BS, RN, L. Wu, MBA, RN; *Opposed:* None; *Abstained:* J. Monagle PhD, RN; *Absent:* K. Crowley, DNP, RN, D. Nikitas, BSN, 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 McDonald on behalf of:

Claire L. MacDonald DNP, RN
Executive Director
Board of Registration in Nursing

Date Issued: August 30, 2022

Notified:

By first-class and certified mail no. 7021 1970 0001 5718 7660,
Return Receipt Requested

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