

JUL 28 2017

DHP

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: **ALEXANDRIA DENISE BLACKMON, R.N.**  
**License Number: 0001-240305**  
**Case Number: 180333**

---

CONSENT ORDER

---

**JURISDICTION AND PROCEDURAL HISTORY**

The Virginia Board of Nursing ("Board") and Alexandria Denise Blackmon, R.N., as evidenced by their signatures hereto, in lieu of proceeding to a formal administrative proceeding, enter into the following Consent Order affecting Ms. Blackmon's license to practice professional nursing in the Commonwealth of Virginia.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Alexandria Denise Blackmon, R.N., was issued License Number 0001-240305 to practice professional nursing on August 24, 2012, which is scheduled to expire on June 30, 2018. Her primary state of residence is Illinois.
2. By Consent Order entered October 12, 2016, the Board suspended Ms. Blackmon's license to practice professional nursing in Virginia and stayed the suspension contingent on her entry into and compliance with the Health Practitioners' Monitoring Program ("HPMP"). This Order was based on findings regarding impairment, practice errors, and convictions of misdemeanor crimes of moral turpitude.
3. Ms. Blackmon entered a Participation Contract with the HPMP on October 31, 2016. She entered a Recovery Monitoring Contract on February 23, 2017. By letter dated May 26, 2017, Ms. Blackmon's HPMP Case Manager indicated that Ms. Blackmon remained in compliance with her Recovery Monitoring Contract.

4. On April 3, 2017, the Pennsylvania Board of Nursing suspended Ms. Blackmon's license to practice professional nursing in the Commonwealth of Pennsylvania. This Order was based solely on the the Virginia Board's Order of October 12, 2016.

5. By Order entered July 18, 2017 the Virginia Department of Health Professions suspended Ms. Blackmon's license to practice professional nursing in Virginia pursuant to Virginia Code § 54.1-2409. This action was based on the suspension of her license to practice professional nursing in Pennsylvania.

6. The matter of the reinstatement of Ms. Blackmon's license to practice professional nursing in the Commonwealth of Virginia is properly before the Board.

### CONSENT

Alexandria Denise Blackmon, R.N., by affixing her signature to this Consent Order, agrees to the following:

1. I have been advised to seek advice of counsel prior to signing this document;
2. I am fully aware that without my consent, no legal action can be taken against me or my license except pursuant to the Virginia Administrative Process Act, Virginia Code § 2.2-4000 *et seq.*;
3. I acknowledge that I have the following rights, among others: the right to a formal administrative hearing before the Board; the right to representation by counsel; and the right to cross-examine witnesses against me;
4. I waive my right to a formal hearing;
5. I admit to the Findings of Fact and Conclusions of Law contained herein and waive my right to contest such Findings of Fact and Conclusions of Law and any sanction imposed hereunder in any future judicial or administrative proceeding in which the Board is a party;

6. I consent to the entry of the following Order affecting my licensure to practice professional nursing in the Commonwealth of Virginia.

### ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Nursing hereby ORDERS as follows:


1. The license of Alexandria D. Blackmon, R.N., to practice professional nursing in Virginia is REINSTATED but continued on INDEFINITE SUSPENSION.
2. The license will be recorded as SUSPENDED.
3. This suspension applies to any multistate privilege to practice professional nursing.
3. The suspension is STAYED and shall remain stayed contingent upon Alexandria D. Blackmon's continued compliance with all terms and conditions of the Virginia HPMP for the period specified by the HPMP.
4. This Order is applicable to Ms. Blackmon's multistate licensure privileges, if any, to practice professional nursing. For the duration of this Order, Ms. Blackmon shall not work outside of the Commonwealth of Virginia pursuant to a multistate licensure privilege without the written permission of the Virginia Board of Nursing and the Board of Nursing in the party state where she seeks to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.
5. Alexandria Denise Blackmon, R.N., shall comply with all laws and regulations governing the practice of nursing in the Commonwealth of Virginia.
6. Upon receipt of evidence of Ms. Blackmon's participation in and successful completion of the terms specified by the HPMP, the Board, at its discretion, may waive Ms. Blackmon's appearance

before the Board and conduct an administrative review of this matter, at which time she may be issued an unrestricted license.

7. Failure to comply with the terms and conditions of the stay of suspension shall result in the immediate rescission of the stay of suspension of the license of Alexandria Denise Blackmon, R.N., and the license shall be recorded as suspended. After any rescission of the stay of suspension, Ms. Blackmon may, within 33 days of the effective date of the rescission, request a formal administrative hearing before the Board.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD

  
\_\_\_\_\_  
Joyce A. Hahn PhD, RN, NEA-BC, FNAP  
President  
Virginia Board of Nursing

ENTERED: 9/19/17

SEEN AND AGREED TO:

Alexandria Denise Blackmon  
Alexandria Denise Blackmon, R.N.

COMMONWEALTH OF ~~VIRGINIA~~ ILLINOIS  
COUNTY/CITY OF COOK, TO WIT:

Subscribed and sworn to me, a notary public in and for the Commonwealth of ~~Virginia~~ <sup>Illinois</sup> at large, on this  
10 day of July, 2017.

Donisha C. Morris  
Notary Public

My commission expires:

05/18/19

Registration No.:

1749678



Certified True Copy

By deraham  
Virginia Board Of Nursing

**BEFORE THE VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS**

**IN RE: ALEXANDRIA DENISE BLACKMON, R.N.**  
**License Number: 0001-240305**  
**Case Number: 180333**

**ORDER OF MANDATORY SUSPENSION**


In accordance with Virginia Code § 54.1-2409, I, David E. Brown, D.C., Director of the Virginia Department of Health Professions, received and acted upon evidence that the Pennsylvania Board of Nursing suspended the license of Alexandria Denise Blackmon, R.N., to practice professional nursing in the Commonwealth of Pennsylvania. A certified copy of the Amended Final Order of the Pennsylvania Board is attached hereto as Commonwealth's Exhibit 1.

WHEREUPON, by the authority vested in the Director of the Department of Health Professions pursuant to Virginia Code § 54.1-2409, it is hereby ORDERED that the license of Alexandria Denise Blackmon, R.N., to practice professional nursing in the Commonwealth of Virginia is hereby SUSPENDED.

Upon entry of this Order, the license of Alexandria Denise Blackmon, R.N., will be recorded as suspended. Should Alexandria Denise Blackmon, R.N., seek reinstatement of her license pursuant to Virginia Code § 54.1-2409, she shall be responsible for any fees that may be required for the reinstatement of the license prior to issuance of the license to resume practice.

This Order shall be applicable to Ms. Blackmon's multistate licensure privilege, if any, to practice nursing in the Commonwealth of Virginia.

Pursuant to Virginia Code § 2.2-4023 and § 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public inspection or copying on request.

  
\_\_\_\_\_  
David E. Brown, D.C., Director  
Virginia Department of Health Professions

Certified True Copy


By   
\_\_\_\_\_  
Virginia Board Of Nursing

ENTERED:

  
\_\_\_\_\_  
7/18/17

**CERTIFICATION OF DUPLICATE RECORDS**

I, David E. Brown, D.C., Director of the Department of Health Professions, hereby certify that the attached Amended Final Order entered April 3, 2017, regarding Alexandria D. Blackmon, R.N., is a true copy of the records received from the Pennsylvania Board of Nursing.

  
\_\_\_\_\_  
David E. Brown, D.C.

Date: 7/18/17

COPY

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF NURSING

Department of State

2017 APR -3 AM 9:57

PROTHONOTARY

Commonwealth of Pennsylvania	:	
Bureau of Professional and	:	Docket No. 1571-51-16
Occupational Affairs	:	
vs.	:	
Alexandria D. Blackmon, RN,	:	File No. 16-51-07287
Respondent	:	

AMENDED FINAL ORDER ADOPTING HEARING EXAMINER'S PROPOSED  
ADJUDICATION AND SUBSTITUTING BOARD ORDER

AND NOW, this 3<sup>rd</sup> day of April, 2017, the State Board of Nursing (Board) having recognized an error in March 23, 2017 Final Order Adopting Hearing Examiner's Proposed Adjudication and Substituting Board Order, **HEREBY AMENDS** the references to Maryland to correctly reference Virginia as follows, while all other terms and conditions of the previous order remain in place:

AND NOW, this 23<sup>rd</sup> day of March, 2017, the State Board of Nursing (Board), having reviewed the evidentiary record of this proceeding, together with the hearing examiner's Proposed Adjudication and Order, and noting that neither party filed exceptions to the hearing examiner's proposal, hereby **ORDERS** that the Proposed Adjudication of the hearing examiner, filed January 6, 2017, including the Proposed Findings of Fact, Proposed Conclusions of Law and Discussion, be, except for the Proposed Order, adopted as the **FINAL** Adjudication of the Board in this proceeding. A copy of the hearing examiner's Proposed Adjudication and Order is attached to this Order as Appendix A.

Because Respondent's discipline in the state of Virginia was based, in part, upon her use or addiction to alcohol which resulted in her inability to practice with reasonable skill or safety to patients, the Board concludes that in order to protect Pennsylvania citizens, it must **INDEFINITELY SUSPEND** Respondent's license until such time as Respondent demonstrates that she is fit and safe to resume the competent practice of professional nursing and has obtained an unrestricted non-probationary license in Virginia. Accordingly, the Board will substitute its own **FINAL ORDER** as follows:

ORDER

AND NOW, this 23<sup>rd</sup> day of March, 2017, the State Board of Nursing, based upon the foregoing Findings of Fact, Conclusions of Law and Discussion, hereby **SUSPENDS INDEFINITELY** the license of Respondent, Alexandria D. Blackmon, RN, License No. RN531593, until such time as she demonstrates

TRUE AND CORRECT COPY  
CERTIFIED FROM THE RECORD  
THIS 18<sup>th</sup> DAY OF April AD. 2017



*Linda L. Ordor*  
PROTHONOTARY



that she has obtained an unrestricted license in the state of Virginia and until she demonstrates that she can resume a competent practice of professional nursing with reasonable skill and safety to patients.

Respondent shall return to the Board all licensure documents, including wall certificate and wallet card and shall be remitted to:

Board Counsel  
Bureau of Professional and Occupational Affairs  
P.O. Box 69523  
Harrisburg, PA 17106-9523

on or before, April 24, 2017, 30 days from the date of mailing of this Order.

Respondent may Petition for Reinstatement of her license upon providing the following documentation:

(a) Evidence from the proper authority in Virginia demonstrating that Respondent's license has been restored to active, non-probationary, unrestricted status;

(b) An evaluation and assessment from a treatment provider approved by the Professional Health Monitoring Program (PHMP) indicating that Respondent is fit to safely practice as a professional nurse with reasonable skill and safety;

(c) Periodic and random drug and alcohol screenings indicating the lack of illicit substances, the last screen to be completed no more than 30 days prior to the Petition for Reinstatement;

(d) A current Criminal History Record Information (a/k/a "Criminal Record Check") from a governmental agency from all states where Respondent has resided since the suspension, compiled no more than three months prior to the Petition for Reinstatement; and

(e) A signed verification that Respondent has not practiced nursing since the suspension.

Following receipt of the documentation, a formal hearing will be held on Respondent's Petition. At the hearing, Respondent will have the burden to prove that she can resume the competent practice of professional nursing with reasonable skill and safety to patients.

This Order is effective immediately. The sanction becomes effective 30 days from the date of mailing of this Order, namely, April 24, 2017.

**BUREAU OF PROFESSIONAL AND  
OCCUPATIONAL AFFAIRS**



**IAN J. HARLOW  
COMMISSIONER**

**Respondent's Address:**

**Commonwealth's Attorney:**

**Board Counsel:**

**Date of Mailing:**

**BY ORDER:**

**STATE BOARD OF NURSING**



**LINDA L. KMETZ, PhD, RN  
CHAIRMAN**

**Alexandria Blackmon, RN  
3113 Elaine Court  
Flossmoor, IL 60422**

**Glenn P. Masser, Esquire**

**Megan E. Castor, Esquire**

**April 3, 2017**

# APPENDIX A

**RECEIVED**  
JAN 06 2017  
Department of State  
Prothonotary

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF NURSING**

Commonwealth of Pennsylvania,  
Bureau of Professional and  
Occupational Affairs

v.

Alexandria D. Blackmon, R.N.,  
Respondent

:  
:  
:  
:  
:  
:  
:

Docket No. 1571-51-16  
File No. 16-51-07287

---

**PROPOSED ADJUDICATION AND ORDER**

---

Jackie Wiest Lutz  
Chief Hearing Examiner

Commonwealth of Pennsylvania  
GOVERNOR'S OFFICE OF GENERAL COUNSEL  
Department of State  
P.O. Box 2649  
Harrisburg, PA 17105-2649  
(717) 772-2686

DATE DISTRIBUTED 1/6/17  
PROSECUTION \_\_\_\_\_  
COUNSEL \_\_\_\_\_  
HEARING EXAMINER \_\_\_\_\_  
OTHER \_\_\_\_\_

### HISTORY

This matter was initiated by the Commonwealth's filing of a single-count Order to Show Cause ("OTSC") on August 17, 2016, against Alexandria D. Blackmon, R.N. ("Respondent").

The Commonwealth alleged in its OTSC that Respondent is subject to disciplinary action under Section 14(a)(6) of the Professional Nursing Law,<sup>1</sup> 63 P.S. § 224(a)(6) (Act), in that the Respondent had a license suspended or revoked or received other disciplinary action by the proper licensing authority in another state, territory, possession or country, namely, the Virginia Board of Nursing ("Virginia Board").

On September 22, 2016, Respondent filed an Answer to the OTSC. Thereafter, on September 23, 2016, a *Notice of Hearing* was issued by the Deputy Prothonotary of the Department of State, which scheduled the matter for a hearing to occur on December 8, 2016, commencing at 9:00 a.m. at 2601 N. Third Street, One Penn Center, Harrisburg, PA.

The hearing was held as scheduled on December 8, 2016 at the designated time and place before Hearing Examiner Jackie Wiest Lutz, Esquire. The Commonwealth was represented by Prosecuting Attorney Glenn P. Masser, who presented the Commonwealth's case through documentary evidence. Respondent did not attend the hearing; nor was she represented by counsel.

The record in this matter closed on December 19, 2016, with the filing of the hearing transcript.

<sup>1</sup> Act of May 22, 1951, P.L. 317, as amended, 63 P.S. §§211 et. seq.

## FINDINGS OF FACT

1. Respondent holds a license to practice as a registered nurse in the Commonwealth of Pennsylvania, License No. RN531593. (Official Notice<sup>2</sup> - Board records)
2. Respondent's license was issued on August 16, 2001, expired on October 31, 2006, and may be renewed, reactivated or reinstated thereafter upon the filing of the appropriate documentation and payment of the necessary fees. (Official Notice - Board records)
3. At all times pertinent to the factual allegations, Respondent held a license to practice as a registered nurse in the Commonwealth of Pennsylvania. (Official Notice - Board records)
4. Respondent's address on file with the Board is 515 1<sup>st</sup> North Condo 105, Minneapolis MN 55401; however, the return address of the envelope which contained

<sup>2</sup> At the commencement of the hearing, the Commonwealth's prosecuting attorney requested that official notice be taken of the Respondent's licensure records on file with the Board. Official notice of such matters as might be judicially noticed by courts is permissible under the General Rules of Administrative Practice and Procedure, 1 Pa. Code §31.1 *et. seq.*, at §35.173, which provides, in pertinent part, as follows:

§35.173. Official notice of facts.

Official notice may be taken by the agency head or the presiding officer of such matters as might be judicially noticed by the courts of this Commonwealth, or any matters as to which the agency by reason of its functions is an expert. . .

1 Pa. Code §35.173.

Official notice is also permitted under case law. See, for example, *Falasco v. Commonwealth of Pennsylvania Board of Probation and Parole*, 521 A. 2d 991 (Pa. Cirwifh. 1987), in which the Commonwealth Court explained:

"Official notice" is the administrative counterpart of judicial notice and is the most significant exception to the exclusiveness of the record principle. The doctrine allows an agency to take official notice of facts which are obvious and notorious to an expert in the agency's field and those facts contained in reports and records in the agency's files, in addition to those facts which are obvious and notorious to the average person. Thus, official notice is a broader doctrine than is judicial notice and recognizes the special competence of the administrative agency in its particular field and also recognizes that the agency is a storehouse of information on that field consisting of reports, case files, statistics and other data relevant to its work.

521 A. 2d at 994 n. 6.

Respondent's Answer to the OTSC, lists Respondent's address as 3113 Elaine Court, Flossmoor, IL 60422. (Official Notice - Board records; Docket No. 1571-15-16)

5. At all relevant and material times, Respondent was authorized to practice as a registered nurse in the Commonwealth of Virginia, license number 0001-240305. (Exhibit C-3)

6. At all relevant and material times, Respondent was authorized to practice as a licensed nurse practitioner in the Commonwealth of Virginia, license number 0024-170375. (Exhibit C-3)

7. At all relevant and material times, Respondent held an authorization to prescribe in the Commonwealth of Virginia, authorization number 0017-142405. (Exhibit C-3)

8. On March 11, 2016, the Virginia Board issued an *Order of Summary Suspension*, which ordered that the license held by Respondent to practice professional nursing in the Commonwealth of Virginia is suspended. (Exhibit C-3)

9. The *Order of Summary Suspension* was based upon information indicating that Respondent may have violated certain laws relating to the practice of nursing in the Commonwealth of Virginia, as set forth in a "Notice of Hearing" and "Statement of Particulars" which was attached to the *Order of Summary Suspension*, in that she may be unable to safely practice nursing due to substance abuse and/or mental and/or physical illness, as evidenced by the following:

a. On or about October 4, 2015, Respondent was hospitalized at Southwest Virginia Mental Health Institute, Marion, Virginia, pursuant to a temporary detention order, as a result of severe mental distress following four (4) days of heavy alcohol use;

b. In or about May 2015, Respondent was convicted of public drunkenness in the City of Norfolk, Virginia, General District Court;

- c. In or about May 2015, Respondent was convicted of driving under the influence in Minnesota;
- d. In or about September 2015, Respondent duplicated and improperly documented information in medical records belonging to four (4) separate patients;
- e. On or about October 5, 2015, Respondent was convicted of identity theft/fraud and providing a false identity to law enforcement officers in the Circuit Court of the City of Chesterfield, Virginia.

(Exhibit C-3)

- 10. Respondent was served with the OTSC and all subsequent pleadings, notices, and orders filed of record in this proceeding. (Exhibits C-1 and C-2; Docket No. 1571-15-16)
- 11. Respondent did not attend the hearing held on December 8, 2016, and she was not represented by counsel. (Transcript, *passim*)



CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter. (Findings of Fact Nos. 1-3)
2. Respondent has been afforded reasonable notice of the charges against her and an opportunity to be heard in this proceeding, in accordance with the Administrative Agency Law, 2 Pa. C.S. § 504. (Findings of Fact Nos. 10-11)
3. Respondent is subject to disciplinary action under Section 14(a)(6) of the Act, 63 P.S. § 224(a)(6), in that her license to practice professional nursing in the Commonwealth of Virginia was suspended by the Virginia Board. (Findings of Fact Nos. 1-3, 5-9)

## DISCUSSION

The Commonwealth's OTSC is brought under Section 14(a)(6) of the Act, which provides in relevant part as follows:

**§ 224. Refusal, suspension or revocation of licenses**

(a) The Board may refuse, suspend or revoke any license in any case where the Board shall find that

\* \* \*

(6) The licensee has his or her license suspended or revoked or has received other disciplinary action by the proper licensing authority in another state, territory, possession or country;

\* \* \*

In support of its case, the Commonwealth introduced into evidence the OTSC (Exhibit C-1); Respondent's Answer (Exhibit C-2); and, the certified records of Respondent's disciplinary action in the Commonwealth of Virginia (Exhibit C-3). These documents establish by a preponderance of the evidence<sup>3</sup> that Respondent's license to practice professional nursing in the Commonwealth of Virginia was suspended by the Virginia Board, as charged in the OTSC. In addition, in her Answer to the OTSC, Respondent candidly disclosed:

I will be going into their [Virginia Board's] professional monitoring program for 5 years and will also forward you all paperwork from that program.

I am currently not drinking and last drink was December 13, 2015. I am following all my probation guidelines and in therapy as well as Celebrate recovery a faith based program. I now know that I will never drink again and will seek help proactively as a way to deal with my depression or difficult life events. I will

<sup>3</sup>The degree of proof required to establish a case before an administrative tribunal in an action of this nature is a preponderance of the evidence. *Lansberry v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). A preponderance of the evidence is generally understood to mean that the evidence demonstrates a fact is more likely to be true than not to be true, or if the burden were viewed as a balance scale, the evidence in support of the Commonwealth's case must weigh slightly more than the opposing evidence. *Se-Ling Hostery, Inc. v. Margulies*, 70 A.2d 854, 856 (Pa. 1949). The Commonwealth therefore has the burden of proving the charges against Respondent with evidence that is substantial and legally credible, not by mere "suspicion" or by only a "scintilla" of evidence. *Lansberry*, 578 A.2d at 602.

continue Monitoring program for next 5 years. Follow all recommendation set out by program. I will also continue and be successful with celebrate recovery.

/s/ Alexandria Blackmon, MSN

Therefore, Respondent is subject to disciplinary action under Section 14(a)(6) of the Act, 63 P.S. § 224(a)(6), as charged.<sup>4</sup>

When the Board finds that the license of any nurse is subject to disciplinary action, section 14(b) of the Act, 63 P.S. § 224(b), authorizes the Board to impose a range of sanctions commensurate with the severity of the misconduct at issue. Section 14(b) provides, in pertinent part, as follows:

§ 224. Refusal, suspension or revocation of licenses

\*\*\*

(b) When the Board finds that the license of any nurse or dietitian-nutritionist may be refused, revoked or suspended under the terms of subsection (a), the Board may:

\*\*\*

- (2) Administer a public reprimand.
- (3) Revoke, suspend, limit or otherwise restrict a license as determined by the Board.
- (4) Require a licensee to submit to the care, counseling or treatment of a physician or a psychologist designated by the Board.

<sup>4</sup> In her Answer to the OTSC, Respondent asserts that she does not have a license to practice in the Commonwealth of Pennsylvania and has not practiced in Pennsylvania since 2003, although she was licensed as a RN in Pennsylvania from 2001-2006. The right to practice a profession, once acquired, constitutes a property right in the license, *Brady v. Com., State Bd. of Chiropractic Examiners*, 471 A.2d 572, 575 (Pa. Cmwh. 1984), which cannot be extinguished except through due process, by the revocation of the license. *Kesley v. Com., State Real Estate Commission*, 501 A.2d 1155, 1157 (Pa. Cmwh. 1985). If a license is suspended, it is still "susceptible to revival," and the holder still possesses a property right entitled to due process protection. *Brown v. Com., State Board of Pharmacy*, 565 A.2d 913, 915 (Pa. Cmwh. 1989); see also *Pittenger v. Dep't of State, BPOA*, 142 Pa. Cmwh. 57, 61; 596 A.2d 1227, 1230 (1991). Similarly, if a license has simply not been renewed (which is the case here), the holder still possesses a property interest in the license because it can be renewed at any time, and for that reason, the licensee is still within the jurisdiction of the Board for purposes of the disciplinary provisions of the licensing law. *Nicoletti v. State Bd. of Vehicle Mfrs., Dealers and Salespersons*, 706 A.2d 891, 893 - 894 (Pa. Cmwh. 1998). Therefore, the fact that Respondent allowed her Pennsylvania nursing license to lapse is no defense to this action.

(5) Suspend enforcement of its finding thereof and place a licensee on probation with the right to vacate the probationary order for noncompliance.

\* \* \*

Additionally, section 13(b) of the Act, 63 P.S. § 223(b), authorizes the Board to impose a civil penalty of up to \$1,000 on any current licensee who violates any provision of the Act, and pursuant to sections 5(b)(4) and 5(b)(5) of the Act of July 2, 1993, P.L. 345, No. 48 ("Act 48"), 63 P.S. § 2201 *et seq.*, at 63 P.S. §§ 2205(b)(4) and (5),<sup>5</sup> the Board may impose both a civil penalty of up to \$10,000 on any licensee who violates any provision of the Act and the costs of the investigation underlying the disciplinary action.

In determining an appropriate sanction; the Board generally considers the number of violations at issue, the seriousness of those violations, and any mitigating or aggravating evidence presented. The Board is mindful of its responsibility to oversee the profession in a manner that protects the public health and safety, *Barran v. State Bd. of Medicine*, 670 A.2d 765, 767 (Pa. Cmwith. 1996), *appeal denied*, 679 A.2d 230 (Pa. 1996), and recognizes that the

<sup>5</sup> Sections 5(b)(4) and (b)(5) of Act 48 provide as follows:

§ 2205. Civil penalties

\* \* \*

(b) Additional powers.—In addition to the disciplinary powers and duties of the boards and commissions within the Bureau of Professional and Occupational Affairs under their respective practice acts, boards and commissions shall have the power, respectively:

\* \* \*

(4) To levy a civil penalty of not more than \$10,000 per violation on any licensee, registrant, certificate holder, permit holder or unlicensed person who violates any provision of the applicable licensing act or board regulation.

(5) To assess against the respondent determined to be in violation of the disciplinary provisions administered by a licensing board or commission in a disciplinary proceeding pending before the board or commission for final determination, as part of the sanction, the costs of investigation underlying that disciplinary action. The cost of investigation shall not include those costs incurred by the board or commission after the filing of formal actions or disciplinary charges against the respondent.

primary focus of disciplinary sanctions is not punishment but, rather, public protection. *Galena v. Department of State*, 551 A.2d 676, 679-680 (Pa. Cmwlth. 1988). See also, *Sklar v. Dept. of Health*, 798 A.2d 268, 275 (Pa. Cmwlth. Ct. 2002), *appeal denied*, 845 A. 2d 819 (2004).

At the close of evidence, the Commonwealth recommended that Respondent's license to practice as a registered nurse in the Commonwealth be indefinitely suspended until such time that her professional nursing license in the Commonwealth of Virginia is reinstated to full, unrestricted status. It is laudable that the Respondent, in her answer, appears to be committed to "never drink[ing] again," and to be receptive to continued monitoring for five (5) years in the Virginia Board's professional monitoring program. Nonetheless, the Hearing Examiner finds the Commonwealth's recommendation to be appropriate.

Because a licensing board has no real independent ability to monitor the performance of a licensee who practices outside the state, the Commonwealth Court of Pennsylvania has found the authority of a licensing board "to act swiftly upon official verification of disciplinary action in another state" as "most salutary." *Johnston v. State Board of Medical Education and Licensure*, 410 A.2d 103, 105 (Pa. Cmwlth. 1980). Since Respondent does not reside in Pennsylvania, and the Virginia Board has taken action to suspend Respondent's license, the most appropriate sanction for the protection of the citizens of this Commonwealth is an indefinite suspension of Respondent's license to practice as a registered nurse in the Commonwealth of Pennsylvania until such time as Respondent's license to practice as a registered nurse in the Commonwealth of Virginia has been restored to unrestricted status by the Virginia Board, and Respondent satisfies all of the licensing requirements then in effect to renew her suspended and expired license,

including the Board's continuing education requirements at 49 Pa. Code § 21.131<sup>6</sup> and the Board's continued competency requirements at 49 Pa. Code § 21.30a.<sup>7</sup>

The Commonwealth did not recommend a civil penalty, and the Hearing Examiner does not believe that one is warranted.

Accordingly, the following proposed order will issue:

<sup>6</sup> The Board's continuing education requirements provide, in relevant part as follows:

§ 21.131. Continuing education.

(a) *Requirement of continuing education.* Beginning with the license period commencing on July 12, 2010, an applicant for renewal of a professional nursing license shall complete 30 hours of continuing education approved by the Board during the biennial period immediately preceding the application for renewal in accordance with section 12 of the act (63 P.S. § 222) and this subchapter.

\*\*\*

(e) *Reinstatement of suspended license.* A licensee seeking to reinstate a suspended license shall submit documentation to demonstrate that the licensee completed 30 hours of continuing education within the biennial period immediately preceding application for reinstatement.

\*\*\*

The entirety of the Board's continuing education regulations for professional nurses can be found at 49 Pa. Code §§ 21.131-21.134 and are posted on the Board's website, along with the rest of the Board's regulations. [http://www.portal.state.pa.us/portal/server.pt/community/state\\_board\\_of\\_nursing/12515](http://www.portal.state.pa.us/portal/server.pt/community/state_board_of_nursing/12515).

<sup>7</sup> The Board's continued competency regulation provides as follows:

§ 21.30a. Continued competency.

A nurse whose license has lapsed for 5 years or longer or whose license has been placed on inactive status for 5 years or longer, as permitted in section 11(b) of the act (63 P.S. § 221(b)), may reactivate the license by doing one of the following:

- (1) Successfully completing the initial licensing examination approved by the Board and submitting the examination fee as set forth in § 21.5 (relating to fees).
- (2) Successfully completing a Board-approved reactivation program, which includes as a prerequisite to completion the passing of a Board-approved nursing achievement examination.
- (3) Providing evidence to the Board that the applicant has practiced nursing in another jurisdiction at some period of time within the last 5 years under a current license during that time.



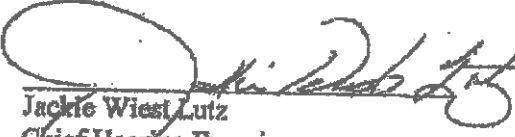
a. Evidence from the proper authority in the Commonwealth of Virginia demonstrating that Respondent's license has been restored to active, non-probationary, unrestricted status;

b. A current Criminal History Record Information (a/k/a "Criminal Record Check") from a governmental agency from all states where Respondent has resided since the effective date of this suspension, compiled no more than three months prior to the Petition for Reinstatement; and,

c. A signed verification that Respondent has not practiced nursing in the Commonwealth of Pennsylvania since the date of her license suspension.

The State Board of Nursing has announced its intention to review this Proposed Report in accordance with 1 Pa. Code § 35.226(a)(2).

BY ORDER:

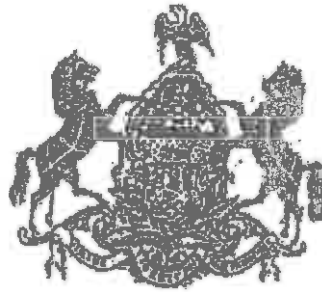
  
Jackie Wiest Lutz  
Chief Hearing Examiner

*For Respondent:* Alexandria Blackmon, R.N.  
3113 Elaine Court  
Flossmoor, IL 60422

*For the Commonwealth:* Glenn P. Masser, Esquire  
Commonwealth of Pennsylvania  
GOVERNOR'S OFFICE OF GENERAL COUNSEL  
Department of State  
P.O. Box 69521  
Harrisburg, PA, 17106-9521

*Date of Mailing:* January 6, 2017





## NOTICE

### **SERVICE OF PROPOSED REPORT:**

The foregoing is the proposed report issued in this matter by a Hearing Examiner for the Department of State, in accordance with the General Rules of Administrative Practice and Procedure at 1 Pa. Code §35.207.

### **EXCEPTIONS TO PROPOSED REPORT:**

Any participant who wishes to appeal all or part of the Hearing Examiner's proposed report to the Board must file exceptions in the form of a *Brief on Exceptions* with the Prothonotary of the Department of State within 30 days after the date of mailing shown on this proposed report in accordance with the General Rules of Administrative Practice and Procedure at 1 Pa. Code §§35.211-214.

The *Brief on Exceptions* shall contain a short statement of the case; a summary of the appealing party's position, the grounds for filing exceptions to the proposed report, and the argument in support of the appealing party's position with citations to the record and legal authority. The appealing party may also include proposed findings of fact and conclusions of law.

In the event any participant files exceptions, the Board may substitute its findings for those of the Hearing Examiner, and /or may impose a greater or lesser sanction than that imposed by the Hearing Examiner without regard to the relief requested or the position argued by any party, and without hearing additional argument or facing additional evidence.

Failure to file a *Brief on Exceptions* within the time allowed under the General Rules of Administrative Practice and Procedure at 1 Pa. Code §§35.211-214 shall constitute a waiver of all objections to the proposed report.

### **FILING AND SERVICES:**

An original and three (3) copies of the *Brief on Exceptions* shall be filed with:

Prothonotary  
2601 North Third Street  
P. O. Box 2649  
Harrisburg, PA 17105-2649

Copies of the *Brief on Exceptions* must also be served on all participants to the proceeding.

Briefs on Exceptions must be received for filing by the Prothonotary within the time limits specified herein. Date of receipt by the Office of Prothonotary and not date of deposit in the mail is determinative.

## NOTICE

The attached Final Order represents the final agency decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a Petition for Review with that Court within 30 days after the entry of the order in accordance with the Pennsylvania Rules of Appellate Procedure. See Chapter 15 of the Pennsylvania Rules of Appellate Procedure entitled "Judicial Review of Governmental Determinations," Pa. R.A.P 1501 – 1561. Please note: An order is entered on the date it is mailed. If you take an appeal to the Commonwealth Court, you must serve the Board with a copy of your Petition for Review. The agency contact for receiving service of such an appeal is:

Board Counsel  
P.O. Box 69523  
Harrisburg, PA 17106-9523

The name of the individual Board Counsel is identified on the Final Order.