

Certified True Copy

By: 

Virginia Board of Nursing

David E. Brown, D.C.
Director



COMMONWEALTH of VIRGINIA

Department of Health Professions

Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

www.dhp.virginia.gov
TEL (804) 367-4400
FAX (804) 527-4475

February 2, 2016

Melissa Norman Barker, R.N.
22055 Misty Road
Abingdon, VA 24211

RE: License No.: 0001-226123

Dear Ms. Barker:

CERTIFIED MAIL

**DUPLICATE COPY
VIA FIRST CLASS MAIL**

DATE 2/2/16

Pursuant to Section 54.1-2409 of the Code of Virginia (1950), as amended, ("Code"), you are hereby given notice that your license to practice nursing in the Commonwealth of Virginia has been mandatorily suspended by the enclosed Order entered February 2, 2016. You are hereby advised that, pursuant to Section 54.1-2409.1 of the Code, any person who practices a profession or occupation after having their license or certificate to do so suspended shall be guilty of a felony. Please return your license to Jay P. Douglas, Executive Director, at the above address, immediately upon receipt of this letter.

Section 54.1-2409 of the Code further provides that you may apply to the Board of Nursing ("Board") for reinstatement of your license, and shall be entitled to a hearing not later than the next regular meeting of the Board after the expiration of sixty days from the receipt of such reinstatement application. You have the following rights, among others: to be represented by legal counsel, to have witnesses subpoenaed on your behalf, to present documentary evidence and to cross-examine adverse witnesses. The reinstatement of your license shall require the affirmative vote of three-fourths of the members present of the Board of Nursing.

Should you wish to petition the Board of Nursing for reinstatement of your license, contact Jay P. Douglas, Executive Director, at the above address or (804) 367-4599.

RECEIVED

FEB 03 2016

VA BD OF NURSING

Enclosures
Case # 170873

Sincerely,



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

VIRGINIA:

BEFORE THE DEPARTMENT OF HEALTH PROFESSIONS

IN RE: MELISSA NORMAN BARKER, R.N.
License No.: 0001-226123

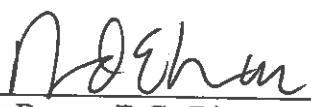
ORDER

In accordance with Section 54.1-2409 of the Code of Virginia (1950), as amended, ("Code"), I, David E. Brown, D.C., Director of the Virginia Department of Health Professions, received and acted upon evidence that the privilege of Melissa Norman Barker, R.N., to practice nursing through the Nurse Licensure Compact in the State of Tennessee was revoked by a Final Order dated November 19, 2015. A certified copy of the Final Order is attached to this Order and is marked as Commonwealth's Exhibit No. 1.

WHEREFORE, by the authority vested in the Director of the Department of Health Professions pursuant to Section 54.1-2409 of the Code, it is hereby ORDERED that the license of Melissa Norman Barker, R.N., to practice nursing in the Commonwealth of Virginia be, and hereby is, SUSPENDED.

Upon entry of this Order, the license of Melissa Norman Barker, R.N., will be recorded as suspended and no longer current. Should Ms. Barker seek reinstatement of her license pursuant to Section 54.1-2409 of the Code, she shall be responsible for any fees that may be required for the reinstatement and renewal of her license prior to issuance of her license to resume practice.

Pursuant to Sections 2.2-4023 and 54.1-2400.2 of the Code, 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.



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

ENTERED: 2/2/16



COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions

Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

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FAX (804) 527-4475

CERTIFICATION OF DUPLICATE RECORDS

I, David E. Brown, D.C., Director of the Department of Health Professions, hereby certify that the attached Final Order entered November 19, 2015, regarding Melissa Norman Barker, R.N., is a true copy of the records received from the Tennessee Board of Nursing.



David E. Brown, D.C.

Date: 2/2/16

BEFORE THE TENNESSEE BOARD OF NURSING

RECEIVED
26/11/19 PM 3:32

In the Matter of:

MELISSA N. BARKER

R.N. License No. 0001226123 (VA)

Respondent

SECRETARY

Docket No. 17.19-131993A

FINAL ORDER

This matter came to be heard before the Tennessee Board of Nursing (Board) on the 18th day of November, 2015, pursuant to a Notice of Hearing and Charges filed against the Respondent. Presiding at the hearing was the Honorable Rachel Waterhouse, Administrative Law Judge, assigned by the Secretary of State. The State was represented by Jamie L. Formont, Assistant General Counsel. The Respondent was not present and not represented by counsel. Counsel for the State made a motion pursuant to Tennessee Code Annotated Section (TENN. CODE ANN. §) 4-5-309 to find the Respondent in default. In support of its motion, the State introduced evidence the Notice of Hearing and Charges and Memorandum for Assessment of Civil Penalties was served upon the Respondent at the address of record and a second address located by a CLEAR Search via the United States Postal Service certified mail, and via the United States Postal Service, first class mail. Additionally, the State attempted to contact Respondent by telephone at the number of record and a second phone number located by a CLEAR Search. Having considered the evidence in this matter, the Administrative Law Judge advised the Board service on Respondent was legally sufficient. By majority vote, the Board GRANTED the State's motion to find the Respondent in DEFAULT and to conduct the proceeding without the participation of the Respondent. After consideration of the Notice of Hearing and Charges, testimony of witnesses, argument of counsel, and the record as a whole, the Board finds as follows:

COMMONWEALTH'S
EXHIBIT

1

RECEIVED 800-631-0888

FINDINGS OF FACT

1. Respondent has been at all times pertinent hereto licensed by the Virginia Board of Nursing as a registered nurse in the State of Virginia, having been granted license number 0001226123 on July 20, 2010, which currently has an expiration date of September 30, 2016. Respondent's registered nurse license is active and bears a multistate privilege to practice nursing in states which have entered into the Interstate Nurse Licensure Compact.
2. In 2014, Respondent worked at as a registered nurse at Select Specialty Hospital in Bristol, Tennessee on the multistate privilege afforded by her Virginia nursing license.
3. As evidenced in the affidavit of Anita Plaster, Respondent failed to properly administer narcotics while employed at Select Specialty Hospital.
4. As evidenced in the affidavit of Anita Plaster, Respondent failed to properly document the administration and/or wastage of narcotics while employed at Select Specialty Hospital.

CONCLUSIONS OF LAW

The Board, having jurisdiction over this matter, finds the facts in this Order sufficient to establish Respondent violated the following provisions of TENN. CODE ANN. §63-7-101, *et seq.* and the Official Compilation Rules and Regulations of the State of Tennessee for the Board of Nursing (TENN. COMP. R. & REGS.) 1000-01-.01, *et seq.*:

5. The facts as found in paragraphs three (3) and four (4) constitute a violation of TENN. CODE ANN. §63-7-115(a)(1):

- (C) Is unfit or incompetent by reason of negligence, habits or other cause;
 - (F) Is guilty of unprofessional conduct.
6. The facts as found in paragraphs three (3) and four (4) constitute a violation of TENN. COMP. R. & REGS. 1000-01-.13(1), which defines "unprofessional conduct, unfitness or incompetency by reason of negligence, habits or other cause" as including, but not limited to:
- (b) Failure to maintain a record for each patient which accurately reflects the nursing problems and interventions for the patient and/or failure to maintain a record for each patient which accurately reflects the name and title of the nurse providing care;
 - (e) Unauthorized use or removal of narcotics, drugs, supplies, or equipment from any health care facility, school, institution or other work place location.

REASONS FOR THE DECISION

It is the duty of the Board of Nursing to protect the citizens of Tennessee. The Board found this nurse failed to properly administer narcotics and failed to properly document administering or wasting narcotics. These acts are a threat to the wellbeing of the patients and citizens of Tennessee, as such, revocation is the appropriate discipline.

ORDER

THEREFORE, it is **ORDERED** as follows:

7. Respondent's privilege to practice as a registered nurse in Tennessee, pursuant to the authority vested in the Board under TENN. CODE ANN. §§63-7-115 and 116, shall be and is hereby **REVOKED**.

8. Respondent is assessed nine (9) Type A Civil Penalties in the amount of one thousand dollars (\$1,000.00) each, for a total of nine thousand dollars (\$9,000.00), in accordance with TENN. CODE ANN. §63-1-134(a) and (b) and TENN. COMP. R. & REGS. 1000-01-.04(6) and shall be paid in full within twenty four (24) months from the effective date of this Order.
9. Respondent shall pay the costs of this action pursuant to TENN. CODE ANN. §§63-7-115(d) and 63-1-144, and TENN. COMP. R. & REGS. 1000-01-.04(11). These costs will be established by an Assessment of Costs prepared by counsel for the Department. The Assessment of Costs shall not exceed five thousand dollars (\$5,000.00) and shall be paid in full within twelve (12) months from the issuance of the Assessment of Costs.

NOTICE

1. The probation and civil penalties are formal disciplinary actions and will be reported to the National Practitioner Data Bank (NPDB).
2. Civil penalties are hereby assessed pursuant to TENN. COMP. R. & REGS. 1000-02-.04(6) and TENN. CODE ANN. §63-1-134(c), which states in particular:
 - a. Civil penalties assessed pursuant to this section are final, due and payable as of the date shown on the certificate of filing below.
 - b. If the violator fails to pay an assessment when it becomes final, the department may apply to the appropriate court for a judgment and seek execution of such judgment.
3. All costs shall be paid in *certified funds only* (certified check, cashier's check, or money order) to the State of Tennessee, which shall be mailed or delivered to:

Disciplinary Coordinator, Tennessee Department of Health, Office of Investigations, 665
Mainstream Drive, Second Floor, Nashville, Tennessee 37243.

4. A notation shall be placed on the instrument designating that it is payable for the costs and/or civil penalty of Melissa N. Barker, Case No. **201401958**.
5. A violation of this Order shall constitute a separate violation, pursuant to TENN. CODE ANN. §63-7-115(a)(1)(G), and is grounds for further disciplinary action by the Board.

SO ORDERED this 19th day of November, 2015, by the Tennessee Board of Nursing.

Martha Buchanan PhD, RN
Chairperson/Acting Chairperson
Tennessee Board of Nursing

RECONSIDERATION, ADMINISTRATIVE RELIEF AND JUDICIAL REVIEW

Within fifteen (15) days after the entry of an initial or final order, a party may file a petition to the Board for reconsideration of the Final Order. If no action is taken within twenty (20) days of filing of the petition with the Board, it is deemed denied. TENN. CODE ANN. §4-5-317.

In addition, a party may petition the Board for a stay of the Final Order within seven (7) days after the effective date of the Final Order. TENN. CODE ANN. §4-5-316.

Finally, a party may seek judicial review by filing a petition for review in the Chancery Court of Davidson County within sixty (60) days after the effective date of the Final Order. A petition for reconsideration does not act to extend the sixty (60) day period; however, if the petition is granted, then the sixty (60) day period is tolled and a new sixty (60) day period commences from the effective date of the Final Order disposing of the petition. TENN. CODE ANN. §4-5-322.

PREPARED FOR ENTRY:


Jamie L. Formont, BPR No. 031662
Assistant General Counsel
Tennessee Department of Health
Office of General Counsel
665 Mainstream Drive, 2nd Floor
Nashville, Tennessee 37243
615.741.1611

CERTIFICATE OF FILING

This Order was received for filing in the Office of the Secretary of State, Administrative Procedures Division, and became effective on the 19th day of November, 2015.

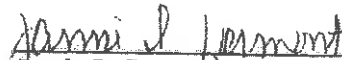


Richard Collier, Director
Administrative Procedures Division

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon Respondent, Melissa N. Barker, R.N., 22055 Misty Road, Abingdon, Virginia 64611 and 319 Roberts Avenue, Sugar Grove, VA 23475, by United States mail, certified, numbers 7015 1520 0003 3865 4905 and 7015 1520 0003 3865 4912, return receipt requested, and by United States mail, First Class, with sufficient postage thereon to reach its destination.

This 20th day of November, 2015.



Jamie L. Formont
Assistant General Counsel