

SEP 03 2014

VA BD OF NURSING

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: **NEEKA DENEEN BARROW, R.N.**
License No. 0001-223470

CONSENT ORDER

The Virginia Board of Nursing ("Board") and Neeka Deneen Barrow, R.N., as evidenced by her signature hereto, enter into the following Consent Order affecting Ms. Barrow's license to practice professional nursing in Virginia.

The Board adopts the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Neeka Deneen Barrow, R.N., was issued License No. 0001-223470 to practice professional nursing by the Virginia Board of Nursing on March 1, 2010. Said license was suspended pursuant to § 54.1-2409 of the Code of Virginia (1950), as amended ("Code"), by Order of the Virginia Department of Health Professions entered January 14, 2013, based on Ms. Barrow's surrender, in lieu of further disciplinary action, of her license to practice nursing in the State of North Carolina on January 2, 2013. Ms. Barrow also holds expired licenses to practice professional nursing in the District of Columbia, Florida, Ohio and South Carolina. Her primary state of residence is Virginia.
2. Ms. Barrow signed a Participation Contract with the Health Practitioners' Monitoring Program ("HPMP") on May 2, 2013. On June 7, 2013, she was placed on warning status with the HPMP following her May 22, 2013, urine drug screen, which was positive for alcohol. Ms. Barrow admitted to relapsing on alcohol in mid-May, 2013. An HPMP case manager testified that Ms. Barrow is currently compliant with her Recovery Monitoring Contract.
3. By Order of the Board entered August 5, 2013, the reinstatement of said license was denied and continued on indefinite suspension with the suspension stayed upon the condition that Ms. Barrow

remain compliant with the terms of her Recovery Monitoring Contract with the HPMP and comply with certain terms and conditions of the Board.

4. By Order of the Board entered May 2, 2013, the State of Nevada revoked the Professional Nurse's License issued to Neeka Deneen Barrow, R.N., to practice nursing in the State of Nevada. This action was based on the Virginia Board's Order entered January 14, 2013, and on the disciplinary action by the North Carolina Board of Nursing.

5. Subsequent to a Summary Suspension entered October 2, 2013, the Maryland Board of Nursing entered an Order on March 10, 2014, which permanently revoked the registered nurse license issued to Neeka Deneen Barrow, R.N., to practice nursing in the State of Maryland. This action was based on the Virginia Board's Order entered January 14, 2013, and on the disciplinary action by the North Carolina Board of Nursing.

6. By Order of the Board entered February 25, 2014, the State of Minnesota suspended the registered nurse license issued to Neeka Deneen Barrow, R.N., to practice nursing in the State of Minnesota. This action was based on the Virginia Board's Order entered January 14, 2013, and on the disciplinary actions by the North Carolina Board of Nursing, the Nevada State Board of Nursing and by the Maryland Board of Nursing.

7. By Order entered September 16, 2014, the Director of the Department of Health Professions mandatorily suspended the license of Neeka Deneen Barrow, R.N., to practice nursing in the Commonwealth of Virginia pursuant to Section 54.1-2409 of the Code due to the actions of the Nevada, the Maryland and the Minnesota Boards.

CONCLUSIONS OF LAW

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

CONSENT

Neeka Deneen Barrow, by affixing her signature hereon, agrees to the following:

1. She has been advised to seek advice of counsel prior to signing this document;
2. She acknowledges that without her consent, no legal action can be taken against her except pursuant to the Virginia Administrative Process Act, § 2.2-4000(A) *et seq.* of the Code;
3. She acknowledges that she has the following rights, among others: the right to a formal fact finding hearing before the Board, the right to reasonable notice of said hearing, the right to representation by counsel, and the right to cross-examine witnesses against her;
4. She waives all such right to a formal hearing;
5. She admits to the Findings of Fact and Conclusions of Law contained herein and waives her right to contest such Findings of Fact and Conclusions of Law in any subsequent proceeding before the Board;
6. She consents to the entry of the following Order affecting her right to practice professional nursing in Virginia.

ORDER

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, and with the consent of the licensee, it is hereby ORDERED that the license of Neeka Deneen Barrow to practice nursing in the Commonwealth of Virginia, be, continued on indefinite suspension with said suspension stayed contingent upon her continued compliance with the terms as referenced in the Board's Order of August 5, 2013, and her Recovery Monitoring Contract with the HPMP.

Ms. Barrow shall maintain a course of conduct in her capacity as a professional nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations and all laws of the Commonwealth.

Pursuant to §§ 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 public record and shall be made available for public inspection or copying upon request.

FOR THE BOARD:

Jane R. Ingalls
Jane R. Ingalls, R.N., Ph. D.
President, Virginia Board of Nursing

ENTERED: 16 Sept. 2014

SEEN AND AGREED TO:

Neeka Deneen Barrow, RN, BSN
Neeka Deneen Barrow, R.N.

COMMONWEALTH OF VIRGINIA,
COUNTY/CITY OF HAMPTON, TO WIT:

Subscribed and sworn to before me, Alejandra Martinez, a Notary Public, this 29 day of August, 2014.

My commission expires 03-31-2015.

Registration Number 7126315.

ALEJANDRA MARTINEZ
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES MAR. 31, 2015
COMMISSION # 7126315

[Signature]
NOTARY PUBLIC

Certified True Copy
By [Signature]
Virginia Board Of Nursing

VIRGINIA:

BEFORE THE DEPARTMENT OF HEALTH PROFESSIONS

IN RE: NEEKA DENEEN BARROW, R.N.
License No.: 0001-223470

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:

1. The State of Nevada Board of Nursing revoked the license of Neeka Deneen Barrow, R.N., to practice nursing in the State of Nevada by an Order dated May 2, 2013. A certified copy of the Order is attached to this Order and is marked as Commonwealth's Exhibit No. 1; and
2. The State of Maryland Board of Nursing permanently revoked the license of Neeka Deneen Barrow, R.N., to practice nursing in the State of Maryland by a Final Decision and Order of Permanent Revocation dated March 10, 2014. A certified copy of the Final Decision and Order of Permanent Revocation is attached to this Order and is marked as Commonwealth's Exhibit No. 2.
3. The State of Minnesota Board of Nursing suspended the license of Neeka Deneen Barrow, R.N., to practice nursing in the State of Minnesota by a Final Order dated February 25, 2014. A certified copy of the Final Order is attached to this Order and is marked as Commonwealth's Exhibit No. 3.

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 Neeka Deneen Barrow, R.N., to practice nursing in the Commonwealth of Virginia be, and hereby is, SUSPENDED.

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: 9/16/14

Certified True Copy

By 
Virginia Board Of Nursing

CERTIFICATION OF DUPLICATE RECORDS

I, David E. Brown, D.C., Director of the Department of Health Professions, hereby certify that the attached Order of the Board dated May 2, 2013, regarding Neeka Deneen Barrow, R.N., are true copies of the records received from the State of Nevada Board of Nursing.



David E. Brown, D.C.

Date: 9/16/17

ORIGINAL

BEFORE THE NEVADA STATE BOARD OF NURSING

1
2
3 IN THE MATTER OF
4 NEEKA BARROW
5 LICENSED PROFESSIONAL NURSE
6 NEVADA LICENSE NO. RN70611
7 RESPONDENT

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER.

CASE NO. 0122-13C

8
9 On Thursday, March 28, 2013, a hearing was held in the above matter before the Nevada
10 State Board of Nursing at the Tamarack Junction, 13101 S. Virginia Street, Reno, Nevada 89511,
11 in compliance with the provisions of Chapters 233B and 632 of the Nevada Revised Statutes
12 (NRS) and Chapter 632 of the Nevada Administrative Code (NAC).

13 Respondent Neeka Barrow did not appear at the hearing. The Nevada State Board of
14 Nursing staff appeared through counsel, Frederick R. Olmstead.

15 Based upon NAC 632.923, the Board proceeded to consider the case without the
16 participation of Respondent. Based upon NAC 632.923, the Board considered the charges
17 specified in the Complaint to be true. Accordingly, the Board made the following Findings of
18 Fact, Conclusions of Law, and Order:

19 FINDINGS OF FACT

20 I.

21 At least twenty-one (21) working days prior to the date of the hearing, Respondent had
22 been noticed of the hearing by certified mail and first class mail to Respondent's last known
23 residential address.

24 II.

25 The Board had jurisdiction over the matter, and the Board could proceed to make a
26 determination in the matter.
27
28



1 III.

2 On December 21, 2011, Respondent was first licensed as a Licensed Professional Nurse
3 in the State of Nevada.

4 On December 31, 2012, Respondent Voluntarily Surrendered her North Carolina RN
5 license. The basis for the Voluntary Surrender was diversion of controlled substances.

6 On January 14, 2013, Respondent's Virginia RN license was suspended. The basis for
7 the suspension was the disciplinary action by the North Carolina Board of Nursing against
8 Respondent's North Carolina RN license.

9 CONCLUSIONS OF LAW

10 1. Pursuant to NRS 632.320 and/or NAC 632.325 and/or NAC 632.923-927, the
11 Board may take disciplinary action against the Respondent based upon proof of a violation of
12 chapter 632 of the Nevada Revised Statutes and/or the Nevada Administrative Code.

13 2. Based on the charges specified in the Complaint being considered as true, due to
14 Respondent's failure to appear at the hearing after proper notice was given, Respondent was found
15 guilty of violating NRS 632.320(1)(m) because Respondent has been disciplined in another state
16 in connection with a license to practice nursing or a certificate to practice as a nursing assistant
17 or has committed an act in another state which would constitute a violation of this chapter.

18 ORDER

19 Based on the foregoing Findings of Fact and Conclusions of Law and good cause
20 appearing therefore,

21
22 IT IS HEREBY ORDERED that pursuant to NRS 632.320 and/or NAC 632.926 (1)(h),
23 Respondent's Nevada Professional Nurse's License No. RN70611 is Revoked. Respondent may
24 not apply for reinstatement of her license for a period of five (5) years.

25 IT IS FURTHER ORDERED that the revocation shall become part of Respondent's
26 permanent record, be published on the Board's list of disciplinary actions, and be reported to the
27 appropriate data banks.

28 Pursuant to NRS 632.400(2), the ruling of the Board contained in these Findings of Fact,
Conclusions of Law, and Order shall take effect upon service to the Respondent or when the

1 Board receives a return from the United States Postal Service indicating the Respondent refused
2 service or could not be located.

3 If no return is received by the Board, the order shall become effective 30 days from the
4 date of the order.

5 DATED this 2 day of May 2013.

6 NEVADA STATE BOARD OF NURSING


7
8 By: 
9 PATRICIA SMYER, DNSc, RN
10 Board President
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CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Nursing, and that on this 3rd day of May 2013, I served a copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, by placing said document in the U.S. Mail by first class mail and by the U.S. Mail, certified, return receipt requested and postage prepaid, addressed to:

Neeka Barrow

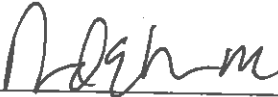
Neeka Barrow



Wendy Dostal
Management Assistant
Nevada State Board of Nursing

CERTIFICATION OF DUPLICATE RECORDS

I, David E. Brown, D.C., Director of the Department of Health Professions, hereby certify that the attached Final Decision and Order of Permanent Revocation (with attachment) of the Board dated March 10, 2014, regarding Neeka Deneen Barrow, R.N., are true copies of the records received from the State of Maryland Board of Nursing.



David E. Brown, D.C.

Date: 9/16/14

IN THE MATTER OF

NEEKA BARROW

License Number R191870

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BEFORE THE

MARYLAND BOARD

OF NURSING

FINAL DECISION AND ORDER OF PERMANENT REVOCATION

I. PROCEDURAL BACKGROUND

On or about January 29, 2013, the Maryland Board of Nursing (the "Board") was notified that the Virginia Board of Nursing had disciplined the registered nursing license of Neeka Barrow (the "Respondent"). The Board conducted an investigation. Based on the information provided to the Board during the investigation, on October 2, 2013, the Board issued an "Order for Summary Suspension of Registered Nurse License and Notice of Charges," which summarily suspended the Respondent's license to practice as a registered nurse ("RN") pursuant to Md. Code Ann., State Gov't § 10-226(c)(2). In addition, the Order for Summary Suspension also notified the Respondent that the Board was charging her with violations of the Maryland Nurse Practice Act, specifically Md. Code Ann., Health Occ. ("H.O.") § 8-316(a):

- (3) Is disciplined by a licensing, military or disciplinary authority in this State or in any other state or country or convicted or disciplined by a court in this state or in any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; specifically H.O. § 8-316(a)(8) ("Does an act that is inconsistent with generally accepted standards in the practice of registered nursing"); (19) ("Is addicted to, or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article"); (25) ("Engages in conduct that violates the professional code of ethics," specifically COMAR 10.27.19.02.B.(1) ("A nurse may not, when acting in the capacity or identity of a license nurse...[k]nowingly participate in or condone dishonest, fraud, deceit, or misrepresentation"); COMAR 10.27.19.02.C.(4) ("A nurse may not engage in behavior that dishonors the profession whether or not acting in the capacity or identity of a licensed nurse, including, but not limited to...[d]iverting any medication or providing false or misleading information to an authorized prescriber or a



pharmacist to obtain or attempt to obtain any medication”); and COMAR 10.27.19.02.C.(8) (“A nurse may not engage in behavior that dishonors the profession whether or not acting in the capacity or identity of a licensed nurse, including, but not limited to...[u]sing, possessing, supplying, administering, or attempting to use, possess, supply, or administer prescription drugs or controlled dangerous substances without valid medical indication”).

The Board’s Order for Summary Suspension also notified the Respondent of a Show Cause hearing before the Board for the Respondent to have the opportunity to show cause as to why her RN license should not remain suspended. On October 22, 2013, a quorum of the Board was present and the Respondent failed to appear. After the Show Cause hearing, the Board voted to continue the summary suspension of the Respondent’s RN license.

The summary suspension order also advised the Respondent that, if the Board continued the summary suspension of her license, the Respondent could make a written request to the Board for a full evidentiary hearing regarding his summary suspension and the Board’s charges against him. The order advised:

[i]f a request for a hearing is not received with thirty (30) days from the date of [the] notice of the Board’s decision after the Show Cause Hearing, Respondent waives all rights now and in the future to any hearing with respect to this Order or the associated charges, or to any proceedings that would contest the validity of the factual allegations of this Order for Summary Suspension and to any appeals.

The Respondent failed to request a hearing. On January 28, 2014, a quorum of the Board was present and a default proceeding was held. Denise McKoy, administrative prosecutor, presented the case on behalf of the State of Maryland.

FINDINGS OF FACT

The Board makes the following findings of fact based upon the entirety of the record:

1. On July 26, 2010, the Respondent was issued a RN license in the State of Maryland.

2. On January 14, 2013, the Virginia Board of Nursing (the "Virginia Board") issued an Order, ordering the suspension of the Respondent's RN license.

3. On July 16, 2013, a formal administrative hearing was held before the Virginia Board to receive and act upon Respondent's application for reinstatement of her suspended RN license. As a result of the hearing, on August 5, 2013, the Virginia Board issued an Order, denying the Respondent's request for reinstatement and further ordered the continuation of the indefinite suspension of her license, with the suspension stayed upon the condition that the Respondent remain compliant with the terms of a Recovery Monitoring Contract with the Health Practitioners' Monitoring Program ("HPMP").

4. The August 5, 2013 Order provided the following Findings of Fact:

- i. During the course of her employment with Sentara Norfolk General Hospital, Norfolk, Virginia, between December 10, 2012 and January 6, 2013, [the Respondent] diverted narcotic medications for her personal and unauthorized use;
- ii. On December 12, 2012, at 11:09 p.m., she withdrew 2 mg of hydromorphone for Patient C and failed to account for its administration, wastage, or return;
- iii. On December 12, 2012, at 5:20 a.m., she withdrew 2 mg of hydromorphone for Patient D, and she failed to account for its administration, wastage, or return;
- iv. On December 11, 2012 at 7:55 p.m., she withdrew 2 mg hydromorphone for Patient E, who was not assigned to her, and she failed to account for its administration, wastage, or return;
- v. On December 11, 2012, at 12:09 a.m. and 12:55 a.m., she withdrew a total of 4 mg of hydromorphone for Patient G, and she failed to account for its administration, wastage, or return;
- vi. On December 10, 2012, at 9:16 p.m, she withdrew 8 mg of Morphine for Patient G, and failed to account for its administration, wastage, or return;

- vii. [The Respondent] admitted to the Board that she diverted on these occasions;
- viii. [The Respondent] submitted to a for-cause employment drug screen on January 11, 2013, which was positive for benzodiazepines and opiates;
- ix. [The Respondent's] employment with Sentara Norfolk General Hospital was terminated;
- x. On May 2, 2013, [the Respondent] signed a Participation Contract with the [HPMP], in which she acknowledged that she has a history of substance abuse and psychiatric illness. She also admitted using non-prescribed Morphine, Vicodin and Xanax;
- xi. [The Respondent] was placed on warning status with the HPMP on June 7, 2013, following her May 22, 2013 urine drug screen, which was positive for alcohol. [The Respondent] admitted to relapsing on alcohol in mid-May 2013;
- xii. [The Respondent] admitted to the Board that she began diverting controlled substances for personal use in 2007.

5. Section 8-316(a)(3) provides that the Board may reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the Board finds, by a preponderance of the evidence, that: (1) the licensee was disciplined by a licensing, military or disciplinary authority in this State or any other state or country or convicted or disciplined by a court in this State or any other state or country; and (2) that the discipline or conviction was for an act that would be grounds for disciplinary action under the Board's disciplinary statutes. *See* H.O. § 8-316(a)(3).

6. In this case, the two conditions for the Board to find a violation of H.O. § 8-316(a)(3) have been met. In August 2013, the Virginia Board denied the application for reinstatement of her license and ordered the continuation of the indefinite suspension of her license based upon: (1) multiple incidents of CDS diversion in December 2012; (2) her admission to the diversion and that she had been diverting CDS for personal use since 2007; (3)

her acknowledgement of a history of substance abuse and the use of non-prescribed Morphine, Vicodin and Xanax; (4) her relapse on alcohol in May 2013; and (5) her positive for-cause employment drug screen in January 2013 for benzodiazepines and opiates. The Board finds that the imposition of a license suspension is discipline, regardless whether that suspension has been stayed.

7. Furthermore, the Respondent's August 2013 discipline was based a medical evaluation that determined that the Respondent suffers from alcoholism and needs treatment. Therefore, the Board finds that the Respondent's conduct in the Commonwealth of Virginia would have violated H.O. § 8-316(a)(8) ("Does an act that is inconsistent with the generally accepted professional standards in the practice of registered nursing or licensed practical nursing") and (19) ("Is addicted to, or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article"). The Board also finds that Virginia Board's August 2013 would have violated H.O. § 8-316(a)(25) because her conduct would have constituted several provisions of the Board's code of ethics, specifically COMAR 10.27.19.02.B.(1) ("A nurse may not, when acting in the capacity or identity of a license nurse...[k]nowingly participate in or condone dishonest, fraud, deceit, or misrepresentation"); COMAR 10.27.19.02.C.(4) ("A nurse may not engage in behavior that dishonors the profession whether or not acting in the capacity or identity of a licensed nurse, including, but not limited to...[d]iverting any medication or providing false or misleading information to an authorized prescriber or a pharmacist to obtain or attempt to obtain any medication"); and COMAR 10.27.19.02.C.(8) ("A nurse may not engage in behavior that dishonors the profession whether or not acting in the capacity or identity of a licensed nurse, including, but not limited to...[u]sing, possessing, supplying, administering, or attempting to use, possess, supply, or administer

prescription drugs or controlled dangerous substances without valid medical indication”). Accordingly, the Board finds that the Respondent violated H.O. § 8-316(a)(3).

8. The Board finds that the Respondent’s violations of the Nurse Practice Act fall within category C. of the Board’s sanctioning guidelines. *See* COMAR 10.27.26.07.C. The range of potential sanctions under category C. includes reprimand to revocation and/or a minimum fine of \$1,000 to a maximum fine of \$5,000. *Id.*

9. The Virginia Board of Nursing disciplined the Respondent for multiple instances of CDS diversion and dependency. In addition, on at least one occasion as recently as January 2013, the Respondent was under the influence of benzodiazepines and opiates while on duty as a nurse. For a registered nurse, diversion of medication is never acceptable. The Respondent’s case is exacerbated because she has not shown the ability or the willingness to attempt to rehabilitate herself. Therefore, the Board finds that the Respondent has permanently lost the Board’s and the public’s confidence to maintain licensure as a registered nurse in the State of Maryland and the Board finds that no disciplinary sanction short of permanent revocation of the Respondent’s license to practice as a registered nurse can adequately protect the public.

III. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes under Md. Code Ann., State Gov’t § 10-226(c)(2) that the public health, safety, and welfare imperatively required emergency action in the form of the summary suspension of the Respondent’s license to practice registered nursing on October 2, 2013.

In addition, based on the foregoing Findings of Fact, the Board concludes that the Respondent violated H.O. § 8-316(a):

- (3) Is disciplined by a licensing, military or disciplinary authority in this State

or in any other state or country or convicted or disciplined by a court in this state or in any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; specifically H.O. § 8-316(a)(8) ("Does an act that is inconsistent with generally accepted standards in the practice of registered nursing"); (19) ("Is addicted to, or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article"); (25) ("Engages in conduct that violates the professional code of ethics," specifically COMAR 10.27.19.02.B.(1) ("A nurse may not, when acting in the capacity or identity of a license nurse...[k]nowingly participate in or condone dishonest, fraud, deceit, or misrepresentation"); COMAR 10.27.19.02.C.(4) ("A nurse may not engage in behavior that dishonors the profession whether or not acting in the capacity or identity of a licensed nurse, including, but not limited to...[d]iverting any medication or providing false or misleading information to an authorized prescriber or a pharmacist to obtain or attempt to obtain any medication"); and COMAR 10.27.19.02.C.(8) ("A nurse may not engage in behavior that dishonors the profession whether or not acting in the capacity or identity of a licensed nurse, including, but not limited to...[u]sing, possessing, supplying, administering, or attempting to use, possess, supply, or administer prescription drugs or controlled dangerous substances without valid medical indication"))).

IV. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that the Summary Suspension of the Respondent's license to practice as a registered nurse in the State of Maryland is hereby **AFFIRMED**; and it is further

ORDERED that the license of the Respondent, License Number R191870, to practice as a registered nurse in the State of Maryland is hereby **PERMANENTLY REVOKED**; and it is further

ORDERED that the Maryland Board of Nursing will not accept or consider any applications for reinstatement of the Respondent's registered nursing license to practice as a registered nurse in the State of Maryland at any time in the future; and it is further

ORDERED that this document is a PUBLIC DOCUMENT under Md. Code Ann., State Gov't §§ 10-611, et seq. (2009 Repl. Vo

MARCH 10, 2014
Date

Patricia A. Noble
P: The Executive Director's Signature
M: Appears on the Original Document

/
/

NOTICE OF APPEAL RIGHTS

Any person aggrieved by a final decision of the Board under Md. Code Ann., Health Occ. § 8-316(a) may take a direct judicial appeal within thirty (30) days as provided by Md. Code Ann., Health Occ. § 8-318, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules, including Md. Rule 7-203 ("Time for Filing Action").

IN THE MATTER OF
NEEKA DENEEN BARROW
License Number: R191870

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BEFORE THE
MARYLAND BOARD
OF NURSING
OAG CASE No. 13 – BP - 400

* * * * *

**ORDER FOR SUMMARY SUSPENSION
OF REGISTERED NURSE LICENSE
AND NOTICE OF CHARGES**

BACKGROUND

On or about January 29, 2013, the Maryland Board of Nursing (the “Board”) was notified that Neeka Deneen Barrow (“Respondent”) had surrendered her registered nurse (“RN”) license (License No.238031) in the State of North Carolina. The Board subsequently received additional information that Respondent’s RN license (License No. 0001-223470) in the Commonwealth of Virginia was suspended on January 14, 2013 and Respondent’s RN license (License No. RN70611) in the State of Nevada was revoked on May 2, 2013.

Based on further information received by the Board, the Board has reason, as set forth below, to find that the public health, safety or welfare imperatively requires emergency action under Md. Code Ann., State Gov’t. § 10-226 (c) (2) (2009 Repl. Vol. & 2012 Supp.)

**ALLEGATIONS OF FACT AND REASONS IN SUPPORT OF
SUMMARY SUSPENSION AND CHARGES**

The Board has received reliable information that the following facts are true:

1. On July 26, 2010, Respondent was issued a RN license in the State of Maryland. Her RN license is active and scheduled to expire on February 28, 2014.

North Carolina Board of Nursing ("NC Board") Discipline

2. On or about December 17, 2012, the NC Board received a complaint that, while Respondent was employed in the Emergency Dept. at Nash General, through Nurse Finders Staffing Agency, a pharmacy audit revealed that Respondent's utilization of Dilaudid was three (3) standard deviations above other nurses in the Dept.
3. Upon further review, the audit identified greater than ten (10) separate instances where Respondent removed Dilaudid from the Omnicell without a MD order and without further documentation to substantiate administration or waste and Respondent removed Dilaudid for patients who were not current patients in the ED.
4. The Board's staff contacted Respondent on December 17, 2012, and offered options for resolution of the complaint. During a detailed description of AP¹, Respondent interrupted and stated that she did not need to hear this information and that she did not take the medications. Respondent told the Board's staff that she did not understand why this was happening. She was directed to review the BON website for information on AP and investigations. While making a plan to call her the following day for her decision, Respondent requested additional time to allow her to speak to her attorney.
5. At Respondent's request, the Board's staff delayed a call back until December 19, 2012. When contacted, Respondent stated that she was most concerned about protecting her rank in the services. She added that she could not risk going through an investigation knowing she would have to dispute the outcome. Respondent stated that after speaking with her attorney, she wished to surrender her license.

¹ According to the NC Board's website, Alternative Program ("AP") is voluntary alternative to traditional discipline action for a nurse whose competency may be impaired because of chemical dependency.

6. On December 31, 2012, the NC Board accepted Respondent's Consent to Surrender License/Privilege to Practice ("Consent").
7. In the Consent, Respondent agreed to the following:
 - i. A waiver of her right to receive a letter of charges that recites the following allegations-drug diversion-controlled substances;
 - ii. The surrender of her license will be considered by the Board to be a disciplinary action;
 - iii. While she may deny the allegations, she was voluntarily surrendering her license/privilege to practice.

Virginia Board of Nursing ("Virginia Board") Discipline

8. On January 14, 2013, the Virginia Board issued an Order, ordering the suspension of Respondent's RN license.
9. The suspension was based on Respondent's NC Consent to Surrender License/Privilege to Practice.
10. After a formal administrative hearing held on July 16, 2013, to receive and act upon Respondent's application for reinstatement of her license, the Virginia Board issued an Order on August 5, 2013.
11. The Order denied Respondent's request for reinstatement and further ordered the continuation of the indefinite suspension of her license with the suspension stayed upon the condition that Respondent remain compliant with the terms of a Recovery Monitoring Contract with the Health Practitioners' Monitoring Program ("HPMP").
12. The August 5, 2013 Order provided the following Findings of Fact:
 - i. During the course of her employment with Sentara Norfolk General Hospital, Norfolk, Virginia, between December 10, 2012 and January 6, 2013, Respondent diverted narcotic medications for her personal and unauthorized use.
 - ii. On December 12, 2012, at 11:09 pm, she withdrew 2 mg of hydromorphone for Patient C and failed to account for its administration, wastage, or return;
 - iii. On December 12, 2012, at 5:20 am, she withdrew 2 mg of hydromorphone for Patient D, and she failed to account for its administration, wastage, or return;

- iv. On December 11, 2012 at 7:55 pm, she withdrew 2 mg hydromorphone for Patient E, who was not assigned to her, and she failed to account for its administration, wastage, or return;
 - v. On December 11, 2012, at 12:09 am and 12:55 am, she withdrew a total of 4 mg of hydromorphone for Patient G, and she failed to account for its administration, wastage, or return;
 - vi. On December 10, 2012, at 9:16 pm, she withdrew 8 mg of Morphine for Patient G, and failed to account for its administration, wastage, or return;
 - vii. Respondent admitted to the Board that she diverted on these occasions;
 - viii. Respondent submitted to a for-cause employment drug screen on January 11, 2013, which was positive for benzodiazepines and opiates;
 - ix. Respondent's employment with Sentara Norfolk General Hospital was terminated.
 - x. On May 2, 2013, Respondent signed a Participation Contract with the HPMP, in which she acknowledged that she has a history of substance abuse and psychiatric illness. She also admitted using non-prescribed Morphine, Vicodin and Xanax.
 - xi. Respondent was placed on warning status with the HPMP on June 7, 2013, following her May 22, 2013 urine drug screen, which was positive for alcohol. Respondent admitted to relapsing on alcohol in mid-May 2013.
 - xii. Respondent admitted to the Board that she began diverting controlled substances for personal use in 2007.
 - xiii. An HPMP case manager testified that Respondent is currently compliant with her Recovery Monitoring Contract.
13. According to the Virginia Board's website, Respondent holds a "Valid Virginia Only" RN license, with a status of "suspended" and an expiration date of January 14, 2013.

Nevada Board of Nursing ("Nevada Board") Discipline

14. On May 2, 2013, the Nevada Board issued a Findings of Fact, Conclusions of Law and Order, ordering the revocation of Respondent's RN license for a period of five years.
15. The Nevada Board's disciplinary action was based on Respondent's Voluntary Surrender of her NC license.
16. Respondent's RN license was suspended by the Virginia Board in January 2013 and in August 2013, the Virginia Board denied the application for reinstatement of her license and ordered the continuation of the indefinite suspension of her license based on: (1) multiple incidents of CDS diversion in December 2012 (2) her admission to the diversion and that she had been diverting CDS for personal use since 2007 (3) her

acknowledgement of a history of substance abuse and the use of non-prescribed Morphine, Vicodin and Xanax (4) her relapse on alcohol in May 2013 and (5) her positive for-cause employment drug screen in January 2013 for benzodiazepines and opiates. Respondent is participating in the Virginia Board's HPMP and her Virginia license is in a "suspended" status. Respondent surrendered her NC license in December 2012 after the NC Board received a complaint alleging diversion of Dilaudid and in May 2013, her Nevada RN license was revoked for a period of five years. Respondent holds an active unencumbered Maryland license and her practice poses a serious risk and danger to the public health, safety and welfare.

17. Based on the information in paragraphs 1 through 16, as well as the information contained in the Notice of Summary Action to Suspend License, the Board finds that the public health, safety or welfare imperatively requires emergency action in this case.
18. Based on the allegations of fact under Background and in paragraphs 1 through 16 the Board voted to charge Respondent with violations of the Nurse Practice Act (the "Act"), Md. Code Ann., Health Occupations Article, §§ 8-101 *et. seq.* (2009 Repl. Vol. & 2012 Supp.) as listed below. The pertinent provisions of Health Occupations Article and the violations under which the above allegations of fact in paragraphs 1 through 16 are brought and for which the Board has charged Respondent, are as follows:

§ 8-316 (a) *In general.* - Subject to the hearing provisions of § 8-317 of this subtitle, the Board may . . . reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the . . . licensee:

- (3) Is disciplined by a licensing, military or disciplinary authority in this State or in any other state or country or convicted or disciplined by a court in this state or in any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; *to wit*, § 8-316 (a):

- (8) Does an act that is inconsistent with the generally accepted professional standards in the practice of registered nursing or licensed practical nursing;
- (19) Is addicted to, or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (25) Engages in conduct that violates the professional code of ethics; *to wit*, Code of Maryland Regulations (“COMAR”) 10.27.19.02 B. A nurse may not, when acting in the capacity or identity of a licensed nurse:
 - (1) Knowingly participate in or condone dishonesty, fraud, deceit, or misrepresentation;
COMAR 10.27.19.02 C. A nurse may not engage in behavior that dishonors the profession whether or not acting in the capacity or identity of a licensed nurse, including, but not limited to:
 - (4) Diverting any medication or providing false or misleading information to an authorized prescriber or a pharmacist to obtain or attempt to obtain any medication;
 - (8) Using, possessing, supplying, administering, or attempting to use, possess, supply, or administer prescription drugs or controlled dangerous substances without valid medical indication;

The applicable section of SG § 10-226 (c) (2) provides that:

- (2) A unit may order summarily the suspension of a license if the unit:
 - (i) finds that the public health, safety, or welfare imperatively requires emergency action; and
 - (ii) promptly gives the licensee:
 - 1. Written notice of the suspension, the finding and the reasons that support the finding; and
 - 2. An opportunity to be heard.

CONCLUSIONS OF LAW

Based on the foregoing investigative information, the Board finds that the public health, safety or welfare imperatively requires emergency action in this case, pursuant to Md. Code Ann., State Gov't. § 10-226 (c) (2) (2009 Repl. Vol. & 2012 Supp.).

ORDER

It is, by a majority of a quorum of the Maryland Board of Nursing:

ORDERED that, pursuant to the authority vested in the Board by Md. Code Ann.,

Barrow, Neeka Deneen: Order for Summary Suspension- R191870

Health Occ., § 8-316 (a) (2009 Repl. Vol. & 2012 Supp.) and Md. Code Ann., State Gov't., § 10-226 (c) (2) (2009 Repl. Vol. & 2012 Supp.), the license (**R191870**) of **Neeka Deneen Barrow**, an individual licensed to practice **REGISTERED NURSING**, is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED that, there will be a Show Cause Hearing on Tuesday, **October 22, 2013** at **10:00 am** before the Board at the Board of Nursing, 4140 Patterson Avenue, Baltimore, Maryland 21215, for Respondent to have the opportunity to show cause as to why her license should not remain suspended; and be it further

ORDERED that, if Respondent's license is suspended following a Show Cause Hearing, upon a written request by Respondent, an evidentiary hearing to consider the merits of this Summary Suspension and charges cited in this Order will be held at the Board of Nursing, within a reasonable period of time from the date upon which the Board receives the written request; and be it further

ORDERED that, if Respondent requests an evidentiary hearing before the Board, Respondent must make the request in writing within thirty (30) days from the date of notice of the Board's decision after the Show Cause Hearing. If a request for hearing is not received within thirty (30) days from the date of notice of the Board's decision after the Show Cause Hearing, Respondent waives all rights now and in the future to any hearing with respect to this Order or the associated charges, or to any proceedings that would contest the validity of the factual allegations of this Order for Summary Suspension and to any appeals; and be it further

ORDERED that, if a request for hearing is not received within thirty (30) days from the date of notice of the Board's decision after the Show Cause Hearing, a Final Order for Revocation of Registered Nurse License, including Findings of Fact and Conclusions of Law, will be issued to Respondent; and be it further

ORDERED that, in the event Respondent requests an evidentiary hearing, the proceeding before the Board will be conducted in accordance with the Administrative Procedure Act ("APA"), Md. Code Ann., State Gov't., § 10-201 et seq. (2009 Repl. Vol. & Supp. 2012), § 8-317 of the Act and regulations promulgated by the Board at COMAR 10.27.02. The APA gives Respondent the right to be represented by counsel authorized to practice law in Maryland, to request subpoenas for evidence and witnesses, to call witnesses, to present evidence, to cross examine every witness called by the Board, to obtain a copy of the hearing procedure upon written request, and to present summation and argument. Unless otherwise prohibited by law, Respondent may agree to the evidence and waive her right to appear at the hearing; and be it further

ORDERED that, for purposes of public disclosure, as permitted by Md. Code Ann., State Gov't., § 10-617(h) (2009 Repl. Vol. & 2012 Supp.) this document consists of the foregoing Summary Suspension of Registered Nurse License and Notice of Charges and that the Board may disclose this document to any national reporting bank or other entity to which the Board is mandated to report; and be it further

ORDERED that, this Order is a public document pursuant to Md. Code Ann., State Gov't. §§ 10-611, *et. seq.*, (2009 Repl. Vol. & 2012 Supp.).

October 2, 2013
Date


Patricia A. Noble
The Executive Director's Signature

Appears on the Original Document
P:
E:
Maryland Board of Nursing

CERTIFICATION OF DUPLICATE RECORDS

I, David E. Brown, D.C., Director of the Department of Health Professions, hereby certify that the attached Final Order of the Board dated February 25, 2014, regarding Neeka Deneen Barrow, R.N., are true copies of the records received from the State of Minnesota Board of Nursing.



David E. Brown, D.C.

Date: 9/16/14

**BEFORE THE MINNESOTA
BOARD OF NURSING**

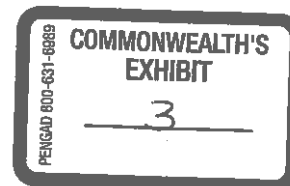
In the Matter of
Neeka D. Barrow, R.N.
License No. 197576-5

**FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER**

The above-entitled matter came on for a prehearing conference on December 18, 2013, before Administrative Law Judge ("ALJ") Barbara J. Case at the request of the Minnesota Board of Nursing ("Board") Review Panel. The matter was initiated pursuant to the Notice and Order for Prehearing Conference and Hearing ("Notice of Hearing") issued by the Board Review Panel on November 12, 2013. Bryan D. Huffman, Assistant Attorney General, represented the Board Review Panel. Neeka D. Barrow, R.N. ("Respondent"), made no appearance.

On January 15, 2014, the ALJ issued Findings of Fact, Conclusions of Law, and Recommendation ("ALJ's report"), recommending the Board take disciplinary action against the nursing license of Respondent. (A true and accurate copy of the ALJ's report is attached hereto and incorporated herein as Exhibit A.)

The Board convened to consider the matter on February 6, 2014, in Conference Room A on the fourth floor of University Park Plaza, 2829 University Avenue S.E., Minneapolis, Minnesota. Bryan D. Huffman, Assistant Attorney General, appeared on behalf of the Board Review Panel. Respondent did not appear. Board members Cindy DeJarlais and Steven Strand did not participate in deliberations and did not vote in the matter. Mariclaire E. England, Nursing Practice Specialist for the Board, did not participate in the deliberations. Sara P. Boeshans, Assistant Attorney General, was present as legal advisor to the Board.



FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby accepts the January 15, 2014, ALJ's report and accordingly adopts and incorporates by reference the Findings of Fact therein.

The allegations contained in the Notice of Hearing are as follows:

1. On or about July 20, 2010, Respondent was licensed as a registered nurse in Minnesota. She also held or currently holds licensure in the District of Columbia, Florida, Maryland, Nevada, North Carolina, Ohio, South Carolina, and Virginia.
2. On or about December 31, 2012, the North Carolina Board of Nursing accepted the voluntary surrender of Respondent's license. Respondent surrendered her license due to her suspected diversion of Dilaudid from a facility in North Carolina while she was contracted for employment as a registered nurse in the emergency department. A facility audit revealed that Respondent removed Dilaudid from the medication-distribution machine without a physician's orders on more than ten occasions. She also removed Dilaudid for patients who were no longer patients in the emergency department.
3. On or about January 14, 2013, the Commonwealth of Virginia, Department of Health Professions, suspended Respondent's license based on the North Carolina disciplinary action.
4. By letters dated March 1 and 29, 2013, the Board asked Respondent to provide information about the North Carolina action. Respondent disclosed the following:
 - a. Respondent received a prescription for Dilaudid a few months before the North Carolina Board began looking into her nursing practice.
 - b. Respondent took medications that were not hers and for which she did not have a prescription.
 - c. Respondent has a history of depression and anxiety.
 - d. Respondent self-referred to the Virginia Health Practitioner's Monitoring Program because she began relying on prescription medications.
5. On or about May 2, 2013, the Nevada State Board of Nursing revoked Respondent's license based on the North Carolina and Virginia actions.

6. On or about October 2, 2013, the Maryland State Board of Nursing issued an Order for Summary Suspension and Notice of Charges to Respondent, suspending her license based on the actions taken in North Carolina, Virginia, and Nevada.

CONCLUSIONS

The Board accepts the January 15, 2014, ALJ's report and accordingly adopts and incorporates the Conclusions therein. Paragraph 5 of the ALJ's Conclusions of Law states,

Under Minn. R. 1400.6000, when a party defaults by failing to appear at a prehearing conference without the prior consent of the judge, the allegations and the issues set out in the Notice and Order for Prehearing Conference and Hearing may be taken as true and deemed proved. The Administrative Law Judge therefore deems the allegations to be true.

ORDER

Based on the foregoing Findings of Fact and Conclusions and upon the recommendation of the ALJ, the Board issues the following Order:

1. NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Respondent as a registered nurse in the State of Minnesota is **SUSPENDED** immediately for an indefinite period of time.

2. IT IS FURTHER ORDERED that during the period of suspension Respondent shall not engage in any conduct which constitutes the practice of professional nursing as defined in Minnesota Statutes section 148.171, subdivision 15, and shall not imply to any persons by words or conduct that Respondent is authorized to practice nursing in the State of Minnesota.

3. IT IS FURTHER ORDERED that if Respondent is in possession of her nursing registration certificate, Respondent shall surrender and personally deliver or mail the certificate to the Minnesota Board of Nursing, c/o Shirley A. Brekken, Executive Director, 2829 University Avenue S.E., Suite 200, Minneapolis, Minnesota 55414, within ten days of the date of this Order.

4. IT IS FURTHER ORDERED that Respondent may petition the Board to have the suspended status removed from her license at such time as she is willing to respond to the Findings of Fact set forth above and following 12 months from the date of this Order. Her license may be reinstated, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that her license to practice professional nursing in North Carolina has been reinstated, that she is capable of conducting herself in a fit and competent manner in the practice of professional nursing, is successfully participating in a program of chemical dependency rehabilitation, and has been sober and free from mood-altering chemicals during the 12 months immediately preceding her petition. At the time of Respondent's petition, Respondent shall meet with a Board Review Panel to review her response to the Findings of Fact and provide documentation of 12 months of uninterrupted sobriety. In petitioning for removal of the suspension, Respondent shall comply with or provide the Board with, at a minimum, the following:

- a. A response to each separate fact set forth in the Findings of Fact.
- b. Evidence of compliance with the provisions of this Order. As part of the proof of compliance, Respondent shall submit the following in support of her petition:

- 1) Self-Report. Respondent shall submit to the Board a report from Respondent herself. The report shall be submitted at the time Respondent petitions for reinstatement of her license. The report shall provide and address:

- a) Respondent's sobriety, including the date Respondent last used mood-altering chemicals, including alcohol, and the circumstances surrounding any use while this Order is in effect;

b) Respondent's treatment and participation in a chemical dependency rehabilitation program, including weekly attendance at a chemical dependency support group such as Alcoholics Anonymous during the 12 months preceding the petition; evidence of participation shall include, but need not be limited to, attendance sheets on a form provided by the Board that have been legibly signed or initialed and dated by a participant who attended the weekly meeting;

c) Respondent's physical and mental health status, treatment plan, medications, and compliance with treatment;

d) Respondent's work schedule;

e) Respondent's future plans in nursing and the steps she has taken to prepare herself to return to nursing practice; and

f) Any other information Respondent believes would assist the Board in its ultimate review of this matter.

2) Reports Verifying Sobriety. Respondent shall cause to be submitted to the Board reports from two adult persons, at least one of whom is not related to Respondent by blood or marriage, who can attest to Respondent's sobriety. These reports shall be submitted at the time Respondent petitions for reinstatement of her license. Each report shall provide and address:

a) Respondent's regular participation in a chemical dependency support group such as AA or other structured chemical dependency rehabilitation program;

b) Respondent's sobriety, including the date she last used mood-altering chemicals, including alcohol; and

c) Any other information the reporter believes would assist the Board in its ultimate review of this matter.

3) Report From Employer. Respondent shall cause to be submitted to the Board a report from Respondent's employer. The report shall be submitted at the time Respondent petitions for reinstatement of her license. The requirement applies to any nursing or non-nursing employment. The report shall provide and address:

- a) Respondent's sobriety;
- b) Respondent's ability to perform assigned tasks;
- c) Respondent's attendance and reliability;
- d) Respondent's ability to handle stress;
- e) Respondent's typical work schedule; and
- f) Any other information the employer believes would assist the Board in its ultimate review of this matter.

4) Report From Mental Health Treatment Professional. Respondent shall cause to be submitted to the Board a report from any mental health treatment professional whom Respondent consults while this Order is in effect. The report shall be submitted to the Board at the time Respondent petitions for reinstatement of her license. The report shall provide and address:

- a) Verification the mental health professional has reviewed this Order;
- b) Identification of a plan of treatment, including any medications, devised for Respondent; any changes in the treatment plan shall be identified in a subsequent report;

c) A statement of the involvement between Respondent and the mental health treatment professional, including the number and frequency of meetings;

d) Respondent's progress with therapy and compliance with the treatment plan;

e) The mental health treatment professional's conclusion as to the need for continuing therapy and Respondent's discontinuance of therapy; and

f) Any other information the mental health treatment professional believes would assist the Board in its ultimate review of this matter.

5) Report From Health Care Professional. Respondent shall cause to be submitted to the Board a report from any health care professional whom Respondent consults for physical health, mental health, or chemical dependency treatment while this Order is in effect. The reports shall be submitted at the time Respondent petitions for reinstatement of her license. The report shall provide and address:

a) Verification the health care professional has reviewed this Order;

b) Identification of diagnoses and any plans of treatment, including medications, devised for Respondent; any changes in the treatment plan shall be identified in a subsequent report;

c) Respondent's progress with therapy and compliance with the treatment plan;

d) A statement regarding Respondent's mental health status;

e) A statement regarding Respondent's sobriety;

f) Recommendations for additional treatment, therapy, or monitoring; and

g) Any other information the health care professional believes would assist the Board in its ultimate review of this matter.

6) Report of Prescribed Mood-Altering Chemicals. Respondent shall cause to be submitted to the Board a report from any and all physicians, dentists, and other authorized health care professionals who have prescribed mood-altering chemicals for Respondent during the period this Order is in effect. Each report is due at the time of petition for reinstatement and shall provide and address:

a) The name, dosage, frequency, and purpose of the mood-altering chemicals for Respondent;

b) Confirmation the physician, dentist, or other health care professional has been informed of Respondent's chemical history; and

c) Any other information the reporter believes would assist the Board in its ultimate review of this matter.

7) Chemical Dependency Evaluation. Within 60 days prior to petitioning, Respondent shall undergo a chemical dependency evaluation performed by a chemical dependency treatment professional. Respondent shall submit, or cause to be submitted, the credentials of the chemical dependency evaluator for review and preapproval by Board staff for purposes of this evaluation. Respondent is responsible for the costs of the evaluation. The results of the evaluation shall be sent directly to the Board and must include a statement verifying the evaluator has reviewed this Order and any evaluation and/or treatment records deemed pertinent by the Board or the evaluator prior to the evaluation.

8) Compliance With Evaluator's Recommendations. Respondent shall comply promptly with any recommendations for additional evaluation and treatment made by the chemical dependency evaluator.

9) Mental Health Evaluation. Within 60 days prior to petitioning, Respondent shall undergo a mental health evaluation performed by a psychiatrist or a licensed psychologist. Respondent shall submit, or cause to be submitted, the credentials of the evaluator for review and preapproval by Board staff for purposes of this evaluation. The evaluation shall include the Minnesota Multiphasic Personality Inventory ("MMPI"). Respondent is responsible for the cost of the evaluation. The results shall be sent directly to the Board and shall provide and address:

a) Verification the evaluator has reviewed a copy of this Order and any evaluation and/or treatment records deemed pertinent by the Board or the evaluator prior to the evaluation;

b) Diagnosis and any recommended treatment plan;

c) Interpretation of Respondent's MMPI test;

d) Respondent's ability to handle stress;

e) Recommendations for additional evaluation or treatment;

and

f) Any other information the evaluator believes would assist the Board in its ultimate review of this matter.

10) Compliance With Evaluator's Recommendations. Respondent shall comply promptly with any recommendations for additional evaluation and treatment made by the mental health evaluator.

11) Random Alcohol and Drug Screens. During the petition process, the Board may direct Respondent, without prior notice, to submit to laboratory hair, blood, and urine screenings to determine the presence or absence of alcohol or drugs. The Board may contact Respondent by telephone, letter, or through personal contact by an agent to direct her to submit to the tests. Respondent shall provide the directed specimen, using a collection site and process approved by the Board, not later than 6:00 p.m. on the day she is contacted by the Board. Respondent shall abstain from substances known to interfere with the toxicology screening process, including but not limited to certain foods, beverages, over-the-counter medications, and other products that contain poppy seeds, hemp seeds, and ethyl alcohol. Examples include but are not limited to nonalcoholic beer or wine; some desserts, salad dressings, soups, and herbal remedies; and hand-sanitizing and mouthwash products. Respondent shall arrange with her employer for release from work for purposes of fulfilling the requirements of the laboratory screening. The specimens shall be handled through legal chain-of-custody methods and tested at a facility approved by the Board. The results of the screens shall be reported directly to the Board. Respondent is responsible for the cost of the screens.

12) Waivers. If requested by the Board at any time during the petition process, Respondent shall complete and sign health records waivers and chemical dependency treatment records waivers supplied by the Board to allow representatives of the Board to discuss Respondent's case with and to obtain written evaluations and reports and copies of all of Respondent's health, mental health, or chemical dependency records from her physician, mental health treatment professional/therapist, chemical dependency counselor, or others from whom Respondent has sought or obtained treatment, support, or assistance.

13) Additional Information. Any additional information relevant to Respondent's petition reasonably requested by the Board Review Panel.

5. IT IS FURTHER ORDERED that Respondent shall meet all reregistration requirements in effect at the time of her petition to reinstate her registration, including but not limited to completing the appropriate application, paying the requisite fees, and completing any necessary continuing education requirements.

6. IT IS FURTHER ORDERED that Respondent's violation of this Order shall constitute the violation of a Board order for purposes of Minnesota Statutes section 148.261, subdivision 1(18), and provide grounds for further disciplinary action.

7. IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting following Respondent's petition for reinstatement pursuant to paragraph 4 above, take any of the following actions:

- a. Grant nursing registration to Respondent;
- b. Grant nursing registration to Respondent with limitations upon the scope of Respondent's practice and/or with conditions for Respondent's practice; or
- c. Continue the suspension of Respondent's license upon her failure to meet the burden of proof.

Dated: February 25, 2014

STATE OF MINNESOTA
BOARD OF NURSING


SHIRLEY A. BREKKEN
Executive Director

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF NURSING

In the Matter of Neeka D. Barrow, R.N.
License No. 197576-5

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND RECOMMENDATION

This matter came on for a prehearing conference before Administrative Law Judge Barbara J. Case on December 18, 2013.

Bryan D. Huffman, Assistant Attorney General, appeared on behalf of the Minnesota Board of Nursing (Board), by its Review Panel. There was no appearance by, or on behalf of Respondent Licensee, Neeka D. Barrow.

On December 23, 2013, the Administrative Law Judge received a motion from the Board requesting that default judgment be entered pursuant to Minn. R. 1400.6000 because there was no appearance by Licensee at the prehearing conference. Respondent did not file a response to the Board's motion. Following the 10 business day response period provided by rule, the hearing record closed on January 8, 2014.

STATEMENT OF THE ISSUES

Whether the foregoing conduct constitutes one or more of the following grounds for disciplinary action:

1. Disciplinary action against Respondent's nursing license in another state, territory, or country; failure to report to the Board that charges regarding Respondent's nursing license were pending in another state, territory, or country; or being refused a license by another state, territory, or country in violation of Minn. Stat. § 148.261, subd. 1(4).
2. Engaging in unprofessional conduct, including failure to conform to minimal standards of acceptable and prevailing nursing practice, in violation of Minn. Stat. § 148.261, subd. 1(6).
3. Actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, or chemicals, or as a result of any mental or physical condition in violation of Minn. Stat. § 148.261, subd. 1(9).



4. Engaging in unethical conduct, including conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient in violation of Minn. Stat. § 148.261, subd. 1(11).

5. Improperly managing patient records in violation of Minn. Stat. § 148.261, subd. 1(16).

6. Violating a rule adopted by the Board, an order of the Board, or a state or federal law relating to the practice of professional, advanced practice registered, or practical nursing, or a state or federal narcotics or controlled substance law in violation of Minn. Stat. § 148.261, subd. 1(18).

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On November 12, 2013, a Notice and Order for Prehearing Conference and Hearing (Notice and Order for Hearing) in this matter was mailed to Respondent at her last known address.¹

2. The Notice and Order for Hearing indicated that a Prehearing Conference would be held in this matter on December 18, 2013, at December 18, 2013, at the Minnesota Board of Nursing, 2829 University Avenue S.E., Suite 200, Minneapolis, Minnesota 55414.²

3. The Notice and Order for Hearing requires that any party intending to "appear at the prehearing conference and hearing must file a Notice of Appearance form and return it to the Administrative Law Judge within 20 days of the date of service" of the Notice and Order for Hearing.³

4. The Notice and Order for Hearing in this matter also includes the following statements:

Respondent's failure to appear at the prehearing conference, settlement conference, or hearing may result in a finding that the Respondent is in default, that the allegations contained in this Notice and Order for Prehearing Conference and Hearing may be accepted as true, and its proposed action may be upheld.

If any party has good cause for requesting a delay of the prehearing conference or hearing, the request must be made in writing to the Administrative Law Judge at least five days prior to the prehearing

¹ See Affidavit of Tammie L. Reeves, dated November 19, 2013.

² Notice and Order for Prehearing Conference and Hearing at 1.

³ *Id.* at 3.

conference or hearing. A copy of the request must be served on the other party.⁴

5. Respondent did not file a Notice of Appearance with the undersigned.

6. No one appeared at the December 18, 2013, prehearing conference on behalf of Respondent. No request was made for a continuance, nor was any communication received by the undersigned from Respondent, prior to the December 18, 2013, prehearing conference.

7. The Notice and Order for Hearing alleges that:

- a. On or about July 20, 2010, Respondent was licensed as a registered nurse in Minnesota. She also held or currently holds licensure in the District of Columbia, Florida, Maryland, Nevada, North Carolina, Ohio, South Carolina, and Virginia.
- b. On or about December 31, 2012, the North Carolina Board of Nursing accepted the voluntary surrender of Respondent's license. Respondent surrendered her license due to her suspected diversion of Dilaudid from a facility in North Carolina while she was contracted for employment as a registered nurse in the emergency department. A facility audit revealed that Respondent removed Dilaudid from the medication - distribution machine without a physician's orders on more than ten occasions. She also removed Dilaudid for patients who were no longer patients in the emergency department.
- c. On or about January 14, 2013, the Commonwealth of Virginia, Department of Health Professions, suspended Respondent's license based on the North Carolina disciplinary action.
- d. By letters dated March 1 and 29, 2013, the Board asked Respondent to provide information about the North Carolina action. Respondent disclosed the following:
 - i. Respondent received a prescription for Dilaudid a few months before the North Carolina Board began looking into her nursing practice.
 - ii. Respondent took medications that were not hers and for which she did not have a prescription.
 - iii. Respondent has a history of depression and anxiety.

⁴ *Id.* at 3.

- iv. Respondent self-referred to the Virginia Health Practitioner's Monitoring Program because she began relying on prescription medications.
- e. On or about May 2, 2013, the Nevada State Board of Nursing revoked Respondent's license based on the North Carolina and Virginia actions.
- f. On or about October 2, 2013, the Maryland State Board of Nursing issued an Order for Summary Suspension and Notice of Charges to Respondent, suspending her license based on the actions taken in North Carolina, Virginia, and Nevada.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Minnesota Board of Nursing and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 214.10 and 214.103.
2. The Respondent received timely and proper notice of the Prehearing Conference in this matter when the Review Panel sent the Notice and Order for Prehearing Conference and Hearing to her last known address.
3. The Minnesota Board of Nursing has complied with all relevant procedural requirements of statute and rule.
4. Under Minn. R. 1400.6000, the Respondent is in default as a result of her failure to appear at the scheduled prehearing conference.
5. Under Minn. R. 1400.6000, when a party defaults by failing to appear at a prehearing conference without the prior consent of the judge, the allegations and the issues set out in the Notice and Order for Prehearing Conference and Hearing may be taken as true and deemed proved. The Administrative Law Judge therefore deems the allegations to be true.
6. Minn. Stat. § 148.261, subd. 1, provides that the Board may discipline a licensee who engages in fraudulent and harmful misconduct.⁵
7. The Board has grounds to take disciplinary action against the Respondent's license because of the Respondent's exploitive misconduct and her failure to cooperate with the Board's investigation.
8. An order by the Board taking disciplinary action against the Respondent's license is in the public interest.

⁵ See, Minn. Stat. § 148.261, subd. 1(11) and (13).

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Minnesota Board of Nursing take disciplinary action against the nursing license of Neeka D. Barrow, R.N.

Dated: January 15, 2014



BARBARA J. CASE
Administrative Law Judge

NOTICE

This report is a recommendation, not a final decision. The Board of Nursing (the Board) will make the final decision after a review of the record. Under Minn. Stat. § 14.61, the Board shall not make a final decision until this Report has been made available to the parties for at least ten calendar days. The parties may file exceptions to this Report and the Board must consider the exceptions in making a final decision. Parties should contact the Executive Director of the Minnesota Board of Nursing, Suite 500, 2829 University Avenue, S.E., Minneapolis, Minnesota 55414 (telephone: 612-617-2296), to learn the procedure for filing exceptions or presenting argument.

The record closes upon the filing of exceptions to the Report and the presentation of argument to the Board, or upon the expiration of the deadline for doing so. The Board must notify the parties and Administrative Law Judge of the date the record closes. If the Board fails to issue a final decision within 90 days of the close of the record, this Report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Board must then return the record to the Administrative Law Judge within ten working days to allow the Judge to determine the discipline imposed.

Under Minn. Stat. § 14.62, subd. 1, the Board is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.