

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF HEALTH
HEALTH SERVICES REGULATION
BOARD OF NURSE REGISTRATION AND NURSING EDUCATION
THREE CAPITOL HILL
PROVIDENCE, RI 02908

_____ :
In the Matter of: :

Samantha Salter, RN 41618, : C14-
0564 :
Respondent. :

ORDER REVOKING LICENSE

I. Introduction

The above-entitled matter came before the Board of Nurse Registration and Nursing Education ("Board") pursuant to a Notice of Charges and Administrative Hearing ("Notice") issued on April 15, 2016 by the Board to Samantha Salter ("Respondent"). The Respondent held a license ("License") as a registered nurse in the State of Rhode Island pursuant to R.I. Gen. Laws § 5-34-1 *et seq.* A hearing was scheduled for May 9, 2016 at which time the Respondent did not appear at hearing. Pursuant to Section 5.6 of the *Rules and Regulations Pertaining to Practices and Procedures Before the Department of Health* ("Hearing Regulation"), service may be made by hand-delivery or first class mail and service is complete upon mailing, even if unclaimed or returned, when sent to the last known address of the party. In this matter, notice was sent to the Respondent's last known address by first class and certified mail. Since the Respondent was adequately noticed of hearing, a hearing was held. Additionally, Section 12.9 of the Hearing Regulation provides that a judgment may be entered based on pleadings and/or evidence submitted at hearing by a non-defaulting party. The Board was represented by counsel.

II. Jurisdiction

The Board has jurisdiction over this matter pursuant to R.I. Gen. Laws § 5-34-1 *et seq.*, *Rules and Regulations for the Licensing of Nurses and Standards for the Approval of Basic Nursing Education Programs* ("Licensing Regulation"), and the Hearing Regulation.

III. Material Facts and Testimony

Linda Julian ("Julian") testified on behalf of the Division. She testified that she has been an investigator for 16 years with the Department. She testified that this matter arose as a result of a complaint filed with the Department of Health ("Department") by Miriam Hospital ("Hospital") regarding missing controlled substances in connection with the Respondent, a former registered nurse at the Hospital. She testified that the Hospital's investigation showed that the Respondent had withdrawn controlled substances from the Omnicell (the electronic drug dispensing system) and had not documented administration of the drugs and there was no wasting of said drugs or reconciliation of said drugs. See Department's Exhibit One (1) (complaint with attached report of theft or loss of controlled substances); Two (2) (Hospital's investigation notes); Three (3) (pharmacy report for Schedule II through V medications for June, 2014 for Respondent); and Four (4) (Omnicell report for June, 2014 for Respondent indicating time and date and type of controlled substances withdrawn by Respondent).

Julian testified that she reviewed the medical administration records ("MAR") for each patient related to the Respondent's drug withdrawal. She testified that the medicines withdrawn by the Respondent from the Omnicell were not documented in each MAR as being administered to patients. She testified that she agreed with the Hospital's conclusion that the Respondent had withdrawn medicine that was not recorded as administered to patients and there was no wasting and no reconciliation of the drugs. She testified that she reviewed each MAR and summarized the data on a spreadsheet. She testified that for example, MAR 694 indicated that there was a doctor's order for morphine for a patient and that Respondent withdrew morphine but never administered it to said patient. See Department's Exhibit Five (5) (spreadsheet). See also Department's Exhibits Six (6) through 15 (MAR for each patient). She testified that for each of the medical records, there was at least one incident where a controlled substance was withdrawn by the Respondent for a patient, but not administered by the Respondent. See also Department's Exhibits 16 (her investigative summary) and 17 (her memorandum to file). She also testified that the police issued a warrant against the Respondent because she sent harassing text messages to a Hospital employee regarding the investigation, but that the police were unable to locate the Respondent. See Department's Exhibit 18 (police report).

Scott Campbell, Chief Compliance Officer, Board of Pharmacy, testified on behalf of the Department. He testified that he has been a licensed pharmacist for 39 years. He testified that he reviewed said Omnicell record and the MAR for each patient and there were 15 incidents where Class II scheduled drugs were withdrawn from the Omnicell by the Respondent, but not recorded as administered in the medical records. He testified that he agreed with the Hospital's and Julian's conclusions. See Department's Exhibit 19 (his memorandum on his review).

Margaret Clifton, Executive Director, Board of Nursing, testified on behalf of the Department. She testified that she has been licensed as a registered nurse for 52 years. She testified that the Notice was sent to the Respondent's address on record with the Department.

She testified that all licensees are required to update their address with the Department. She testified that the Notice was also sent to two (2) other addresses obtained from the police report.

She testified that the Notices were sent first class and certified mail. See Department's Exhibit 20. She testified that the Notice sent to the Respondent's address listed with the Department was returned to the Department as addressee unknown. She testified that the other two (2) Notices were also undeliverable. See Department's Exhibit 21 (United States Post Office tracking print-outs for each Notice). She testified that prior to the hearing, the Board had reached out several times to the Respondent to try to meet with her, but the Respondent never responded. See Department's Exhibits 22, 23, 24, 25, 26, 27, and 28. She testified that she too reviewed the MAR for each patient and the Omnicell records and came to the same conclusion that the Respondent was removing drugs and they were not administered to the patients during the month of June 2014. She testified that the Investigating Committee had recommended a suspension of License for six (6) months and two (2) year probation with the understanding that the Respondent make a live appearance before the Board to discuss this matter.

III. Discussion

The Department argued that on multiple occasions, the Respondent withdrew medicine (controlled substances) and did not administer the drugs to the patients and there was no record of wasting of the drugs or reconciliation of the drugs. The Department argued that the Respondent violated R.I. Gen. Laws § 5-34-24(3) and Section 12.1(c) of the Licensing Regulation (unfit or incompetent by reason of negligence or habits); R.I. Gen. Laws § 5-34-24(6) (iii) and Section 12.1(f)(iii) of the Licensing Regulation (willfully omitted to file or record nursing records and reports required by law); R.I. Gen. Laws § 5-34-24(6)(v) and Section 12.1(g) of the Licensing Regulation (willfully disregarding standards of nursing practice and failing to maintain standards of nursing profession by failing to document in medical records patient in care); and R.I. Gen. Laws § 5-34-6(v) (unprofessional conduct by violating R.I. Gen. Laws § 21-28-3.12 regarding maintaining regards of controlled substance used in professional practice).

Based on the pleadings and exhibits and testimony at hearing, it is undisputed that the Respondent while acting as registered nurse withdrew Class II controlled substances at least ten (10) times during the month of June, 2014 and did not administer them to patients. The fact that the drugs were not recorded as administered was not due to wasting and there was no reconciliation of the drugs.

Based on the forgoing, the Respondent violated R.I. Gen. Laws § 5-34-24(3) and (6)(iii)

and (v) and Sections 12.1(c), (g), and (f)(iii) of the Licensing Regulation.

V. Conclusion

After hearing and based on the forgoing, the Board made the following orders:

1. The Respondent's License is revoked.
2. In order to re-apply for the License, the Respondent would have to appear in person before the Board.

By Order of the Board,


Jessica Brier, RN
President

Entered this 16 day of May, 2016.

NOTICE OF APPELLATE RIGHTS

PURSUANT TO R.I. GEN. LAWS § 5-34-28, APPEALS OF DECISIONS ARE GOVERNED BY THE ADMINISTRATIVE PROCEDURES ACT, R.I. GEN. LAWS § 42-35-1 *et seq.* THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF HEALTH PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS DECISION MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

CERTIFICATION

I hereby certify on this 20th day of May, 2016 that a copy of the within Order and Notice of Appellate Rights was sent by first class mail, postage prepaid and registered mail, return receipt requested to Ms. Samantha Salter, 111 Eldridge Street, Cranston, RI 02910, 267 Fiat Avenue, Cranston, RI 02910, 126 Rosemont Avenue, Pawtucket, RI 02861 and by hand-delivery to Colleen McCarthy, Esquire, Department of Health, Three Capitol Hill, Providence, RI 02908.

