

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
HEALTH REGULATION AND LICENSING ADMINISTRATION
BOARD OF NURSING**

IN RE: :
 :
SHEILA MORRISON, RN :
 :
License No. RN1046160 :
 :
Respondent :

DECISION AND ORDER

Jurisdiction

This matter comes before the District of Columbia Board of Nursing (Board) pursuant to D.C. Official Code § 3-1201.01 *et seq.* (2016 Repl.), otherwise known as the Health Occupations Revision Act (HORA). Section 204(b)(1) of the HORA authorizes the Board to regulate the practice of registered nursing. D.C. Official Code § 3-1202.04(b)(1). Pursuant to section 408(8), the Board is authorized to conduct hearings necessary to carry out its function. D.C. Official Code § 3-1204.08(8). Further, pursuant to section 4113.1 of Title 17 of the District of Columbia Municipal Regulations (DCMR), the Board may authorize a panel of no less than three (3) members of the board to conduct a hearing that is within its jurisdiction. 17 DCMR § 4113.1. Accordingly, the hearing in this matter was duly conducted by a panel of three (3) board members.¹ Pursuant to 17 DCMR § 4113.3, the panel submitted its Recommended Decision, dated August 17, 2021, to the Board to reject or approve in whole or in part in accordance with

¹ The panel was composed of the following members: Laverne Plater, RN (presiding); Margaret Green, LPN; and Monica Goletiani, Consumer Member. As the Board’s quorum requires four (4) members, this panel does not constitute a quorum of the Board and is authorized only to offer a recommended decision to the Board in accordance with 17 DCMR § 4113.2.

17 DCMR § 4113.5. Further, in accordance with 17 DCMR § 4113.7, Respondent was served the Recommended Decision and given an opportunity to file an exception. She did not file an exception to the Recommended Decision.

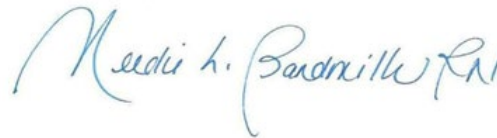
ORDER

Accordingly, by a unanimous vote at its meeting on September 1, 2021, the Board approves the panel's Recommended Decision, dated August 17, 2021, in full; and it is hereby

ORDERED that the panel's Recommended Decision, attached below this Order, be and is hereby adopted in full; and it is hereby

ORDERED that all the terms and conditions set forth in the Recommended Decision be invested with the full force and effect of the Board's authority.

September 1, 2021
Date



Meedie Bardonille, RN
Acting Chairperson
Board of Nursing

**Judicial and Administrative Review
of Actions of Board**

Pursuant to D.C. Official Code § 3-1205.20 (2016 Repl.):

Any person aggrieved by a final decision of a board or the Mayor may appeal the decision to the **District of Columbia Court of Appeals** pursuant to D.C. Official Code § 2-510 (2012 Repl.).

Pursuant to D.C. Court of Appeals Rule 15(a):

Review of orders and decision of an agency shall be obtained by filing with the clerk of this court a petition for review within thirty (30) days after the notice is given.

This Order is the Final Order of the Board in this disciplinary matter and a public record and, as mandated by federal law, 42 USC § 11101 and 45 CFR § 60, “the National Practitioner Data Bank – Health Integrity and Protection Data Bank,” this disciplinary action shall be reported to the U.S. Department of Health and Human Services.

Copies to:

Sheila Morrison, RN
[REDACTED]

Walter Adams, Esquire
Assistant Attorney General
Civil Enforcement Section
Office of the Attorney General
[REDACTED]

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
HEALTH REGULATION AND LICENSING ADMINISTRATION
BOARD OF NURSING**

IN RE: :
 :
SHEILA MORRISON, RN :
 :
License No. RN1046160 :
 :
Respondent :

RECOMMENDED DECISION

Jurisdiction

This matter comes before the District of Columbia Board of Nursing (Board) pursuant to D.C. Official Code § 3-1201.01 *et seq.* (2016 Repl.), otherwise known as the Health Occupations Revision Act (HORA). Section 204(b)(1) of the HORA authorizes the Board to regulate the practice of registered nursing. D.C. Official Code § 3-1202.04(b)(1). Pursuant to section 408(8), the Board is authorized to conduct hearings necessary to carry out its function. D.C. Official Code § 3-1204.08(8). Further, pursuant to section 4113.1 of Title 17 of the District of Columbia Municipal Regulations (DCMR), the Board may authorize a panel of no less than three (3) members of the board to conduct a hearing that is within its jurisdiction. 17 DCMR § 4113.1. Accordingly, the hearing in this matter was duly conducted by a panel of three (3) board members.¹

¹ The panel was composed of the following members: Laverne Plater, RN (presiding); Margaret Green, LPN; and Monica Goletiani, Consumer Member. As the Board's quorum requires four (4) members, this panel does not constitute a quorum of the Board and is authorized only to offer a recommended decision to the Board in accordance with 17 DCMR § 4113.2.

Background

Respondent's license was summarily suspended based on a notice of summary suspension issued by the Department of Health (DC Health) on January 19, 2021. The Office of the Administrative Hearing conducted a hearing to review DC Health's action on February 19, 2021 and issued an order affirming the suspension. On June 28, 2021 the Board issued a Notice of Intent to Take Disciplinary Action (NOI) against the Respondent's registered nurse license based on the following charges:

- Charge I** **You failed to comply with the requirements and conditions of an agreement made between you and the Committee on Impaired Nurse (COIN) in violation of D.C. Official Code §§ 3-1205.14(a)(25) and 3-1251.09, for which the Board may take disciplinary action under D.C. Official Code § 3-1205.14(c).**
- Charge II** **You are professionally or mentally incompetent or physically incapable due to substance abuse or addiction in violation of D.C. Official Code § 3-1205.14(a)(5), for which the Board may take disciplinary action under D.C. Official Code § 3-1205.14(c).**
- Charge III** **You are addicted to, or habitually abuse, any narcotic or controlled substance as defined by Unit A of Chapter 9 of Title 48 in violation of D.C. Official Code § 3-1205.14(a)(6), for which the Board may take disciplinary action under D.C. Official Code § 3-1205.14(c).**

The NOI was served upon the Respondent by e-mail, in accordance with her request, on June 28, 2021. Respondent made a timely request for an expedited hearing, which was conducted on July 22, 2021 by a panel of three (3) board members (Panel).

Evidence

The Panel entered the following into evidence:

- 1) **Board Exhibit A:** The Notice of Intent to Take Disciplinary Action dated June 28, 2021.

- 2) **Government Exhibits 101 – 121.**² Documents previously presented and admitted into exhibit during the hearing on the summary suspension of the Respondent license before the Office of Administrative Hearing. Exhibit 121 is the audio recording of that hearing.
- 3) **Respondent Exhibit 1.** Copies of e-mail correspondence between Respondent and COIN staff.

The following witnesses provided sworn testimony:

- 1) **Government Witness:** Kate Malliarakis, PhD – provided factual and expert testimony.
- 2) **Respondent Witness:** Respondent testified on her own behalf.

It should be noted that while the Government submitted the recording from the OAH hearing conducted on the summary suspension of Respondent's license, the Panel did not rely on that information since it determines that the testimonies provided during the July 22, 2021 hearing was fulsome and sufficient for the purpose.

Findings of Fact

Based on the evidence and testimony presented, the Panel enters the following findings of fact:

1. During all times relevant, Respondent holds a District license as a registered nurse.
2. Respondent was employed as a registered nurse at George Washington University Hospital (GW) in March 2018.³ GW placed her under suspension based on suspected diversion on or about March 15, 2018.⁴ She then resigned from the position in April 2018.⁵

² The Government also introduced Exhibit 100 as a demonstrative exhibit.

³ Government Exhibit 102.

⁴ *Id.*

⁵ *Id.*

3. Respondent referred herself to the Board and was subsequently directed to contact COIN to pursue alternative to discipline.⁶ She applied to attend COIN on or about May 18, 2018 and on the same date entered into an agreement with COIN to be monitored to ensure recovery from substance use disorder and the ability to safely return to the practice of registered nursing.⁷ The agreement was scheduled to remain in place for three (3) years.⁸
4. Respondent's history of COIN participation shows periods of both relapses and compliance. In the early days of her participation after she applied to join in May 2018, Respondent experienced a relapse in June 2018.⁹ During 2019, Respondent was in compliance with the agreement.¹⁰ However, when the COVID-19 pandemic led to the suspension of specimen collection, COIN meetings, and support group meetings, Respondent faltered and relapsed.¹¹
5. In approximately March 2020, Respondent relapsed and began to use controlled substances such as fentanyl and oxycodone.¹² Respondent admitted to the relapse during her meeting with COIN on July 24, 2020.¹³ In the same month, she also did not provide a hair sample when called.¹⁴ COIN did not revoke the participation agreement at that point.

⁶ Government Exhibit 103.

⁷ Government Exhibit 102.

⁸ Government Exhibit 101.

⁹ *Hearing Transcript (Tr.)* at 64 Lines 16-20.

¹⁰ *Id.* at 56 Lines 16-21.

¹¹ Government Exhibit 117.

¹² The evidence on this point is contradictory. Respondent's e-mail dated August 4, 2020 indicated that she had relapsed "about 2 months ago" but Dr. Malliarakis testified, without objection, that Respondent had attended a COIN meeting in July 2020 and admitted then that she had relapsed four months earlier. *Tr.* at 62 Lines 14-16. *Id.* at 63 Lines 17-18. *Id.* at 66 Lines 10-12.

¹³ *Id.*

¹⁴ *Id.* at 62 Lines 4-7.

6. On August 3, 2020, Respondent was scheduled for a hair sample collection.¹⁵ She requested a reschedule. However, when she was rescheduled for the next day, she still indicated unavailability. Ultimately, Respondent did not provide a sample on the scheduled date.
7. Respondent's relapse, failure to promptly notify COIN, and her failure to provide hair sample on August 4, 2020 violated her agreement with COIN. Nevertheless, COIN offered her an opportunity to restart and enter into a second participation agreement. The new agreement contained similar terms to the earlier agreement and would be effective for three (3) years from September 19, 2020. However, Respondent did not sign the new agreement until October 14, 2020.
8. Respondent was called to provide a test sample on November 24, 2020.¹⁶ She failed to appear for the collection and did not contact COIN to obtain an excuse for the no-show.¹⁷
9. Respondent was expelled from COIN on December 22, 2020 due to the failure to comply with the sample collection.

Analysis and Conclusions of Law

The case requires us to determine whether a registered nurse with a long history of nursing practice who has struggled with substance use disorders during the past few years may still be able to overcome her addiction, recover, and continue to engage in safe and competent practice. The evidence in this case, including Respondent's own admission, indicates that she has

¹⁵ Government Exhibit 117.

¹⁶ Government Exhibit 111.

¹⁷ *Id.*

continued to struggle with relapses. In her testimony to the Panel, Respondent states the following:

“I’m clean. I’m sober. I’m under the direct care of psychiatrists, psychologists. I’m in AA. I have a sponsor. I’m on medication. I have a substance abuse disorder. It will be a lifetime disorder. I cannot change that, but I’m doing the things I need to be better.”¹⁸

The Panel is both sympathetic to her pleadings and cognizant of the continued probability of future relapses, including the resistive behaviors that accompany relapses such as brought out during the hearing. Accordingly, we are recommending the order below as the possible balancing of the public interest in retaining a competent professional and the public safety in ensuring that the professional’s ability to serve and care for the public not be undermined by substance use disorder.

The testimony and evidence provided in this case has clearly established that Respondent did violate her participation agreements with COIN on more than one occasion. Accordingly, the Panel finds that she is liable for disciplinary action pursuant to Charge I of the NOI.

Additionally, the Panel also finds that Respondent suffered and continues to suffer from substance use disorder. By her own admission, this may be a lifetime struggle. While the Panel believes that, with her own commitment and efforts, Respondent may be able to manage the addiction and, in the future, arrive at the stage where she may be judged safe to resume practice, the Panel nevertheless finds that she is indeed liable for disciplinary action pursuant to Charge III of the NOI.

The Panel does not find that there is sufficient evidence to conclude that Respondent is professionally or mentally incompetent or physically incapable due to substance abuse or addiction as per Charge II of the NOI.

¹⁸ *Tr.* at 111 Lines 2-7.

D.C. Official Code § 3-1205.14(c) provides, in pertinent part:

Upon determination by the board that an applicant, licensee, or person permitted by this subchapter to practice in the District has committed any of the acts described in subsection (a) of this section, the board may:

- (1) Deny a license to any applicant;
- (2) Revoke or suspend the license of any licensee;
- (3) Revoke or suspend the privilege to practice in the District of any person permitted by this subchapter to practice in the District;
- (4) Reprimand any licensee or person permitted by this subchapter to practice in the District;
- (5) Impose a civil fine not to exceed \$5,000 for each violation by any applicant, licensee, or person permitted by this subchapter to practice in the District;
- (6) Require a course of remediation, approved by the board, which may include:
 - (A) Therapy or treatment;
 - (B) Retraining; and
 - (C) Reexamination, in the discretion of and in the manner prescribed by the board, after the completion of the course of remediation;
- (7) Require a period of probation; or
- (8) Issue a cease and desist order pursuant to § 3-1205.16.

RECOMMENDED ORDER

Accordingly, based upon the aforementioned, the Panel recommends the following decision:

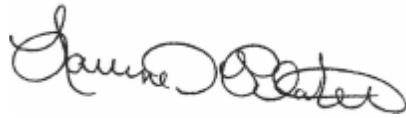
1) Respondent's registered nurse license shall remain suspended until she has established to the Board's satisfaction that she has remained abstinent and in full recovery in accordance with the following terms:

- a) Respondent shall request and execute a new participation agreement with COIN;

- b) Respondent shall commit herself to the rehabilitation and recovery process and shall promptly and fully comply with all terms of the participation agreement without any reservation or excuse;
 - c) Respondent shall remain in the COIN program until she is discharged from COIN based on full compliance;
- 2) Respondent may apply, at her own expense, to the Board to reinstate her registered nurse license based on the following conditions:
- a) The COIN committee has determined that she may be able to safely resume the practice of nursing;
 - b) The Board has determined that she is competent to practice safely and effectively based on, but not limited to, any of the following considerations:
 - i. The length of time that has passed since Respondent last engaged in clinical nursing practice;
 - ii. Any continuing education or training Respondent has completed in the interim;
 - iii. The Board may require that Respondent attend and complete a Board-approved re-entry program prior to the reinstatement of the license; and
 - iv. The Board may impose restrictions or conditions on the reinstated license as it deems appropriate to ensure the protection of the public and patients; and
- 3) The Board shall enter an order of revocation, superseding this order, in the following occurrence:
- a) Respondent fails to enter into a new participation agreement with COIN within sixty (60) days after the date of this order; or

b) Respondent fails to comply with or violates any terms of the participation agreement with COIN provided that Respondent shall have thirty (30) days in which she may respond to COIN's notice of her non-compliance or violation in writing and the Board has determined that the instance of non-compliance or violation indicates her lack of commitment to the rehabilitation and recovery process.

August 17, 2021
Date



Laverne Plater, RN
On Behalf of the Hearing Panel
Board of Nursing

Copies to:

Sheila Morrison, RN
[REDACTED]

Walter Adams, Esquire
Assistant Attorney General
Civil Enforcement Section
Office of the Attorney General
[REDACTED]