

**STATE OF FLORIDA
BOARD OF NURSING**

CASE NUMBER: 2014-10637

COMPLAINT MADE BY: DOH

DATE OF COMPLAINT: December 17, 2014

SUBJECT: Marlana Catherine Lewis, C.N.A.
5347 30th Ave. N.
St. Petersburg, FL 33710

SUBJECT'S ATTORNEY N/A

INVESTIGATED BY: Caroline Anderson
Consumer Services

REVIEWED BY: Judson Searcy
Assistant General Counsel

RECOMMENDATION: Reconsideration (4016)
License revoked

CLOSING ORDER ON RECONSIDERATION

THE COMPLAINT: The Administrative Complainant alleged Respondent violated Section 464.204(1)(b), Florida Statutes (2014), by intentionally violating Section 456.072(1)(c), Florida Statutes (2014), for being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession; Section 464.204(1)(b), Florida Statutes (2014), by intentionally violating Section 464.018(1)(e), Florida Statutes (2014), by entering a plea of guilty, regardless of adjudication, to an offense prohibited by Section 435.04, Florida Statutes, which prohibits violations of Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.

THE FACTS: On January 13, 2016, the Department of Health filed an Administrative Complaint in this case alleging that Respondent entered a plea of guilty to one count of grand theft.

The Board of Nursing filed a Final Order in case number 2014-05689, on November 2, 2015, revoking Respondent's license.

The Department and the Probable Cause Panel have determined that based upon the Subject's license having been revoked, this case should be dismissed without further prosecution.

THE LAW: This case has been closed due to the revocation of Subject's license.

It is, therefore, ORDERED that this matter be, and same is hereby, DISMISSED.

DONE AND ORDERED this _____ day of _____, 2016.

CHAIRPERSON, PROBABLE CAUSE PANEL
BOARD OF NURSING

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2014-10637

MARLANA CATHERINE LEWIS, C.N.A.,

RESPONDENT.

_____ /

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Nursing against Respondent, Marlana Catherine Lewis, C.N.A., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of nursing pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 464, Florida Statutes.

2. At all times material to this Administrative Complaint, Respondent was a certified nursing assistant (C.N.A.) within the state of Florida, having been issued license number CNA 33970.

3. Respondent's address of record is 5347 30th Avenue North, Saint Petersburg, Florida 33710.

4. Respondent may be found at 130 Wallins Corners Road, Amsterdam, New York 12070.

5. On or about September 8, 2014, in the Sixth Judicial Circuit Court, in and for Pinellas County, Florida, Respondent entered a plea of guilty to one count of Grand Theft, a third-degree felony violation of Section 812.014, Florida Statutes.

6. Grand Theft is a crime that relates to the practice of, or ability to practice, licensee's profession; nursing assistance.

COUNT I

7. Petitioner realleges and incorporates paragraphs one through six as if fully set forth herein.

8. Section 464.204(1)(b), Florida Statutes (2014), provides intentionally violating any provision of chapter 464, chapter 456, or the rules adopted by the board, constitutes grounds for disciplinary action.

9. Section 456.072(1)(c), Florida Statutes (2014), provides that being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which

relates to the practice of, or the ability to practice, a licensee's profession, constitutes grounds for disciplinary action.

10. As set forth above, on or about September 8, 2014, Respondent intentionally entered a plea of guilty to one count of Grand Theft, a crime that relates to the practice of, or ability to practice, licensee's profession; nursing assistance.

11. Based on the foregoing, Respondent violated Section 464.204(1)(b), Florida Statutes (2014), by intentionally violating Section 456.072(1)(c), Florida Statutes (2014), for being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

COUNT II

12. Petitioner realleges and incorporates paragraphs one through six as if fully set forth herein.

13. Section 464.204(1)(b), Florida Statutes (2014), provides intentionally violating any provision of chapter 464, chapter 456, or the rules adopted by the board, constitutes grounds for disciplinary action.

14. Section 464.018(1)(e), Florida Statutes (2014), provides that having been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under Section 435.04 or under any similar statute of another jurisdiction; or having committed an act which constitutes domestic violence as defined in Section 741.28, constitutes grounds for disciplinary action.

15. Section 435.04(2)(cc), Florida Statutes (2014), lists violations of Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.

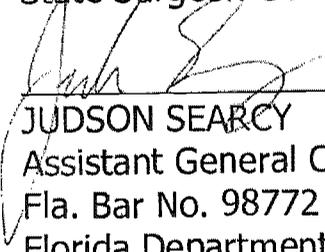
16. As set forth above, on or about September 8, 2014, Respondent entered a plea of guilty to one count of Grand Theft, a third-degree felony violation of Section 812.014, Florida Statutes.

17. Based on the foregoing, Respondent violated Section 464.204(1)(b), Florida Statutes (2014), by intentionally violating Section 464.018(1)(e), Florida Statutes (2014), by entering a plea of guilty, regardless of adjudication, to an offense prohibited by Section 435.04, Florida Statutes, which prohibits violations of Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.

WHEREFORE, the Petitioner respectfully requests that the Board of Nursing enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 12 **day of** January, **2016.**

John H. Armstrong, MD, FACS
State Surgeon General and Secretary of Health



JUDSON SEARCY
Assistant General Counsel
Fla. Bar No. 98772
Florida Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444 ex. 8100
Facsimile: (850) 245-4683
Email: judson.searcy@flhealth.gov

PCP: 01/12/2016

PCP Members: Habgood & Hubbard

FILED
Department Of Health
Deputy Clerk
CLERK *Angel Sanders*
DATE **JAN 13 2016**

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

**STATE OF FLORIDA
BOARD OF NURSING**

CASE NUMBER: 2015-08161

DATE OF COMPLAINT: March 18, 2015

COMPLAINT MADE BY: Kim Cuavers, R.N.
105 15th Street East
Bradenton, Florida 34208

SUBJECT: Denieca L. Wiggins, C.N.A.
Certificate No. CNA218964
2923 Goodrich Avenue
Sarasota, Florida 34234

SUBJECT ATTORNEY: Pro Se

INVESTIGATED BY: Adam Cates
St. Petersburg ISU

REVIEWED BY: Christopher A. Jurich
Assistant General Counsel

RECOMMENDATION: Dismiss (4097)
Reconsideration

CLOSING ORDER

THE COMPLAINT: The Administrative Complaint alleges a violation of Section 464.204(1)(b), Florida Statutes (2014), by intentionally violating Section 464.018(1)(h), Florida Statutes (2014), by and through unprofessional conduct as defined by Rule 64B9-8.005(3), Florida Administrative Code, to include leaving a nursing assignment without advising licensed nursing personnel.

THE FACTS: On June 8, 2015, the Department filed a one-count Administrative Complaint against Respondent, whereby charging

Respondent with the aforementioned violations of the Florida Statutes. The Administrative Complaint was predicated upon allegations by the Complainant that on or about March 3, 2015, Respondent left her shift at Riverfront Nursing and Rehabilitation Center, a skilled nursing facility located in Bradenton, Florida, without advising other licensed personnel that she would not be returning.

Respondent denied the allegations and stated that other nursing personnel were aware that she was leaving for the day due to an emergency. On or about November 5, 2015, Respondent returned an Election of Rights disputing the allegations set forth in the Administrative Complaint and requesting a formal hearing before the Division of Administrative Hearings.

While preparing this case for potential litigation, the Department contacted the two witnesses interviewed during the initial investigation of this case. One witness indicated that she was not willing to cooperate with the Department and testify at a formal hearing. The Department also has concerns about the remaining witness' recollection of the alleged incident. However, regardless of the accuracy of the testimony of the remaining witness, it is unlikely that the Department would be able to clearly and convincingly substantiate that Respondent intentionally violated the aforementioned statutes without corroborating evidence from additional witnesses.

Based on the foregoing, the Department recommends that the previous finding of probable cause be reconsidered and this case be dismissed without further prosecution.

THE LAW: Pursuant to Section 456.073(2), Florida Statutes, this case is hereby DISMISSED.

[*signature on following page*]

It is, therefore, ORDERED that this matter should be and the same is hereby DISMISSED.

DONE and ORDERED this _____ day of _____, 2016.

CHAIRPERSON, PROBABLE CAUSE PANEL
BOARD OF NURSING

/CAJ

PCP Meeting:
PCP Members:

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 2, 2015

Deneica L. Wiggins, C.N.A.
2923 Goodrich Avenue
Sarasota, Florida 34234

Certified Article Number

9414 7266 9904 2017 4842 36

SENDERS RECORD

Re: **DOH v. Deneica L. Wiggins, C.N.A.**
DOH Case No. 2015-08161

Dear Ms. Wiggins:

I am in receipt of your Election of Rights form faxed to my office on July 1, 2015, on which you requested a formal hearing before an Administrative Law Judge appointed by the Division of Administrative Hearings. On the Election of Rights form, you indicate that you are disputing the allegations of material fact in the Administrative Complaint, but you did not indicate which **specific paragraphs** of the Administrative Complaint you are disputing in the space provided on the Election of Rights.

Based upon the above stated reason, your request for a formal hearing before an Administrative Law Judge at the Division of Administrative Hearings is denied. I have enclosed a second Election of Rights form with this letter. If you still wish to request a formal hearing, please indicate on the form which **specific paragraphs** of material fact in the Administrative Complaint you wish to dispute. Please sign the new Election of Rights form before a notary public and return it to my office within **ten (10) days** of receipt of this letter.

If you wish to discuss a settlement of this case, or if you have any questions about this letter, please contact me immediately at my direct number, (850) 245-4444 ext. 8174.

Sincerely,

Christopher A. Jurich
Assistant General Counsel

Enclosures: Election of Rights

Certified Article Number

9414 7266 9904 2043 9458 79

SENDERS RECORD

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-1701
Express mail address: 2585 Merchants Row – Suite 105
PHONE: 850/245-4444 • FAX 850/245-4683

www.FloridasHealth.com

TWITTER:HealthyFLA
FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

ELECTION OF RIGHTS

Please sign and complete all of the information below:

I received the Administrative Complaint on the following date: _____

PLEASE SELECT ONLY 1 OF THE 2 OPTIONS.

OPTION 1. _____ I **do not dispute** the allegations of material fact in the Administrative Complaint. I request a hearing be conducted pursuant to Section 120.57(2), Florida Statutes, where I will be permitted to appear, if I so choose, and submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. _____ I **do dispute** the allegations of material fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. Pursuant to the requirement of Uniform Rule 28-106.2015(5), Florida Administrative Code, I specifically dispute the following material facts (identified by paragraph number and fact disputed) in the Administrative Complaint:

In the event that you fail to make an election in this matter within twenty-one (21) days from receipt of the Administrative Complaint, your failure to do so may be considered a waiver of your right to elect a hearing in this matter, pursuant to Rule 28-106.111(4), Florida Administrative Code, and the Board may proceed to hear your case.

PLEASE NOTE: Regardless of which option you choose, you may be able to reach a settlement agreement with the Department in your case. Please contact the prosecuting attorney if you wish to do so.

Respondent's Signature _____
Address: _____

Attorney/Qualified Representative* _____
Address: _____

Lic. No.: _____

Phone No.: _____

Phone No.: _____ Fax No.: _____

Fax No.: _____

Email: _____

Email: _____

STATE OF FLORIDA
COUNTY OF _____

*Qualified Representatives must file written requests to appear as such pursuant to Rule 28-106.106, Uniform Rules of Procedure.

Before me, personally appeared _____, whose identity is known to me or produced _____ (type of identification) and who, acknowledges that his/her signature appears above.
Sworn to or affirmed by Affiant before me this _____ day of _____ 20____.

Notary Public-State of Florida

My Commission Expires

Type or Print Name

PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Christopher A. Jurich, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444 ext. [8174]; FAX (850) 245-4662; TDD 1-800-955-8771



Prosecution Services Unit
4052 Bald Cypress Way, Bin #C657
Tallahassee, Florida 32399-3265



7439 7246 7704 2043 7458 77

JP

~~Denice L. Wiggins, C.N.A.
1603 3rd Avenue West
Bradenton, Florida~~

NIXIE

89 08 1

0011/12/15

NOT DELIVERABLE TO ADDRESSEE
RETURN TO SENDER
UNABLE TO FORWARD

52399 08284
342058510 CA
*0000-02289/08-15

ELECTION OF RIGHTS

Please sign and complete all of the information below:

I received the Administrative Complaint on the following date: 11/9/2015

PLEASE SELECT ONLY 1 OF THE 2 OPTIONS.

OPTION 1. _____ I do not dispute the allegations of material fact in the Administrative Complaint. I request a hearing be conducted pursuant to Section 120.57(2), Florida Statutes, where I will be permitted to appear, if I so choose, and submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. I do dispute the allegations of material fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. Pursuant to the requirement of Uniform Rule 28-106.2015(5), Florida Administrative Code, I specifically dispute the following material facts (identified by paragraph number and fact disputed) in the Administrative Complaint:

paragraph 9, paragraph 10, paragraph 12, paragraph 13

In the event that you fail to make an election in this matter within twenty-one (21) days from receipt of the Administrative Complaint, your failure to do so may be considered a waiver of your right to elect a hearing in this matter, pursuant to Rule 28-106.111(4), Florida Administrative Code, and the Board may proceed to hear your case.

PLEASE NOTE: Regardless of which option you choose, you may be able to reach a settlement agreement with the Department in your case. Please contact the prosecuting attorney if you wish to do so.

Jenieceia Wiggins
Respondent's Signature

Address: 2923 Goodrich Ave
Sarasota FL 34234

Lic. No.: 218964

Phone No.: 941 243 4606 Fax No.: _____

Email: smallpack42@gmail.com

STATE OF FLORIDA
COUNTY OF Manatee

Attorney/Qualified Representative*

Address: _____

Phone No.: _____

Fax No.: _____

Email: _____

*Qualified Representatives must file written requests to appear as such pursuant to Rule 28-106.106, Uniform Rules of Procedure.

Before me, personally appeared Jenieceia Wiggins, whose identity is known to me or produced N/A (type of identification) and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 12th day of November 20 15

Christy G. McIlwaine
Notary Public - State of Florida

5-19-2018
My Commission Expires

Christy G. McIlwaine
Type or Print Name



PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Christopher A. Jurich, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4444 ext. (8174); FAX (850) 245-4662; TDD 1-800-955-8771

To: Christopher A. Jurich
850-245-4662

From: Deniecea Wiggins

Date: 11/12/2015

page 2

**STATE OF FLORIDA
BOARD OF NURSING**

BOARD: Nursing

CASE NUMBER: 2015-05884

COMPLAINT MADE BY: Department of Health

DATE OF COMPLAINT: February 13, 2015

SUBJECT: Gary Brechen Higgins, R.N.
625 Norton Avenue
Travis AFB, California 94535

SUBJECT'S ATTORNEY: N/A

INVESTIGATED BY: Gerenda Robinson
Consumer Services Unit

REVIEWED BY: Jenna Partin
Assistant General Counsel

RECOMMENDATION: Reconsideration (4097)
License Null and Void

CLOSING ORDER

THE COMPLAINT: The Complainant alleged Subject violated Section 456.072(1)(q), Florida Statutes (2015), violating a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

THE FACTS: On or about September 22, 2015, the Department filed an Administrative Complaint alleging that Subject failed to comply with the requirements of the Final Order filed by the Department of Health in case number 2013-04582.

On or about April 30, 2016, Subject's license became null and void. The Department and the Probable Cause Panel have determined that based upon the Subject's license being null and void, this case should be dismissed without further prosecution. Should Subject re-apply, the allegations addressed in this case shall be addressed before a new license will be issued by the Board of Nursing.

THE LAW: Pursuant to Section 456.073(2), Florida Statutes, this case is hereby DISMISSED.

It is, therefore, ORDERED that this matter should be and the same is hereby DISMISSED.

DONE AND ORDERED this _____ day of _____, 2016.

CHAIRPERSON, PROBABLE CAUSE PANEL
BOARD OF NURSING

/JDP

PCP:

PCP Members:

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2015-05884

GARY BRECHEN HIGGINS, R.N.,

RESPONDENT.

_____ /

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Nursing against Respondent, Gary Brechen Higgins, R.N., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of nursing pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 464, Florida Statutes.

2. At all times material to this Administrative Complaint, Respondent was a licensed registered nurse (R.N.) within the state of Florida, having been issued license number RN 9189313.

3. Respondent's address of record is 625 Norton Avenue, Travis Air Force Base, California, 94535.

4. On or about October 23, 2013, the Department of Health filed a Final Order in case number 2013-04582.

5. The Final Order required Respondent to pay costs of \$203.13 within 12 months of the date the Final Order was filed.

6. Respondent failed to pay costs of \$203.13 within 12 months of the date the Final Order was filed.

7. Section 456.072(1)(q), Florida Statutes (2014), provides that violating a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department constitutes grounds for discipline.

8. Respondent is licensed pursuant to Chapter 464, Florida Statutes, and is a health care practitioner as defined in Section 456.001(4), Florida Statutes (2014).

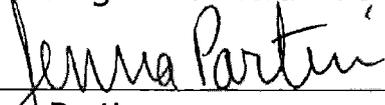
9. Respondent violated a Final Order filed by the Department of Health in case number 2013-04582, by failing to pay costs of \$203.13 within 12 months of the date the Final Order was filed.

10. Based on the foregoing, Respondent has violated Section 456.072(1)(q), Florida Statutes (2014), by violating a lawful order of the department or board, or failing to comply with a lawfully issued subpoena of the department.

WHEREFORE, the Petitioner respectfully requests that the Board of Nursing enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 22nd day of September, 2015.

John H. Armstrong, MD, FACS
State Surgeon General and Secretary of Health



Jenna Partin
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar Number 0028242
Telephone: (850) 245 - 4444
Facsimile: (850) 245 - 4662
Email: jenna.partin@flhealth.gov

/JDP

PCP: September 22, 2015

PCP Members: Whitson and Kemp

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Angel Sanders
DATE SEP 23 2015

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

**STATE OF FLORIDA
BOARD OF NURSING**

CASE NUMBER: 2015-06439

COMPLAINT MADE BY: Maribeth Schmidt, R.N.
Broward Health Coral Springs
3000 Coral Hills Drive
Coral Springs, Florida 33065

DATE OF COMPLAINT: February 18, 2015

SUBJECT: Jacqueline Lochard, R.N.
5323 Flamingo Court
Coconut Creek, Florida 33072

SUBJECT ATTORNEY: Monica Felder Rodriguez, Esquire
7301 Wiles Road, Suite 107
Coral Springs, Florida 33067

INVESTIGATED BY: Katherine Rosenblatt
Investigative Services Unit

REVIEWED BY: Jenna Partin
Assistant General Counsel

RECOMMENDATION: Dismiss (4097)
Reconsideration

CLOSING ORDER

THE COMPLAINT: Complainant alleged that Respondent violated Section 464.018(1)(n), Florida Statutes (2012), failing to meet minimal standards of acceptable and prevailing nursing practice, including engaging in acts for which the licensee is not qualified by training or experience.

THE FACTS: On or about October 20, 2015, the Department filed an Administrative Complaint against Respondent, charging Respondent with violating the minimal standards of acceptable nursing. The basis for

the Administrative Complaint was a retained sponge in a patient following surgery where Respondent was the second, or relief, circulating nurse.

Upon further review of the investigative file, there is insufficient evidence to proceed with the Administrative Complaint. The surgery at issue was actually multiple procedures. The policy of the hospital at the time required the original circulating nurse and scrub tech to clean up everything in the room prior to leaving. By the time the Respondent entered the room, two of the three trays containing surgical equipment were gone. The Respondent's count for her tray was correct. As such, the final count could have been off for a variety of reasons.

The Department provided the records in this case to the in house Nursing Consultant for review. The Consultant agreed there was insufficient evidence to prove the allegation against the Respondent, due to the factors listed above.

Based on the information outlined above, the Department recommends that this case be dismissed without further prosecution.

THE LAW: Therefore, pursuant to Section 456.073(2), Florida Statutes, this case is hereby dismissed.

It is, therefore, ORDERED that this matter should be and the same is hereby DISMISSED.

DONE and ORDERED this _____ day of _____, 2016.

CHAIRPERSON, PROBABLE CAUSE PANEL
BOARD OF NURSING

/JDP

PCP:

PCP Members:

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2015-06439

JACQUELINE LOCHARD, R.N.,

RESPONDENT.

_____ /

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Nursing against Respondent, Jacqueline Lochard, R.N., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of nursing pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 464, Florida Statutes.

2. At all times material to this Administrative Complaint, Respondent was a licensed registered nurse (R.N.) within the state of Florida, having been issued license number RN 3386292.

3. Respondent's address of record is 2365 Hillside Avenue, Orange City, Florida 32763.

4. At all times material to this Administrative Complaint, Respondent was employed by Broward Health Coral Springs (BHCS), located in Coral Springs, Florida.

5. On or about January 24, 2013, Patient T.C., a then thirty-nine (39) year-old female, underwent a partial mastectomy of the right breast.

6. Respondent was the relief circulating nurse during the surgery.

7. During a surgical procedure, the circulating nurse is responsible for conducting counts of the sponges, sharps, and instruments used during the procedure.

8. On or about January 24, 2013, Respondent indicated on the Operative Report that she conducted the final count of the sponges used during the surgery performed on Patient T.C.

9. On or about April 4, 2014, T.C. was readmitted to BHCS due to an abscess in the right breast that would not heal.

10. On or about April 10, 2014, a C.T. scan of the chest indicated a foreign object in the right breast.

11. On or about April 11, 2014, T.C. underwent removal of a sponge from her right breast.

12. Patient T.C. did not have any surgeries between January 24, 2013 and April 11, 2014.

13. According to medical records regarding T.C.'s surgery on or about January 24, 2013, Respondent was the circulating nurse responsible for the final count of sponges at the end of the surgical procedure and indicated a "correct" final count.

14. Section 464.018(1)(n), Florida Statutes (2012), provides that failing to meet minimal standards of acceptable and prevailing nursing practice, including engaging in acts for which the licensee is not qualified by training or experience.

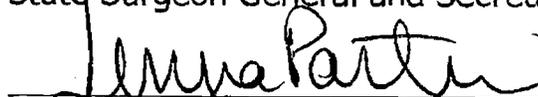
15. Respondent failed to meet the minimal standards of a circulating nurse when Respondent conducted an inadequate final count of the sponges used during T.C.'s surgery performed on or about January 24, 2013.

WHEREFORE, the Petitioner respectfully requests that the Board of Nursing enter an order imposing one or more of the following penalties:

permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 20th **day of** October, **2015.**

John H. Armstrong, MD, FACS
State Surgeon General and Secretary of Health



Jenna Partin
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar Number 0028242
Telephone: (850) 245 - 4444
Facsimile: (850) 245 - 4662
E-mail: Jenna.Partin@flhealth.gov

/JDP

PCP: October 20, 2015

PCP Members: Kemp and Forst

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Bridget Coates*

DATE OCT 21 2015

NOTICE OF RIGHTS

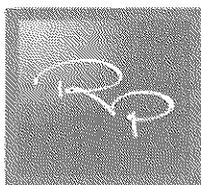
Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.



Monica L. Felder Rodriguez**
Pamela I. Perry
Mark A. Dresnick*
Lewis Fishman*

RODRIGUEZ & PERRY

P.A.

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*Of Counsel
**Board-certified in Health Law

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Fax 305-670-9933
www.rplawfirm.com

March 1, 2016

VIA EMAIL AND U.S. MAIL

Jenna Partin, Esq.
Assistant General Counsel
Office of the General Counsel
Prosecution Services Unit
Florida Department of Health
4052 Bald Cypress Way, Bin #C-65
Tallahassee, FL 32399-3265

RE: DOH Case No. 2015-06439

Dear Ms. Partin,

We represent Jacqueline Lochard, R.N., and are writing to provide information to the Department regarding the allegations in the Administrative Complaint that was filed against Ms. Lochard's license.

The Administrative Complaint seeks to hold Ms. Lochard accountable for a retained sponge in Patient T.C. As noted in the Administrative Complaint, Ms. Lochard was the relief circulating nurse for Patient T.C.'s surgery on January 24, 2013. While the records in the case show that the patient was admitted to the hospital in 2014 for an abscess that was determined to be due to a retained sponge, we do not believe that the evidence in this case shows that Ms. Lochard in any way fell below the standard of nursing care, and ask that the charge in this case be dismissed.

Patient T.C. was diagnosed with breast cancer, and on January 24, 2013, she underwent three separate procedures related to that cancer - a partial mastectomy, a lymph node biopsy, and insertion of an infuse-a-port for chemotherapy. The procedure

started at approximately 1:30 pm, and at 2:10 pm, the surgeon had inserted the port, removed two lymph nodes and removed diseased breast tissue. The specimens removed were dropped off in the pathology laboratory at 2:52 pm. Attached is a copy of the pathology report showing the times the specimens were collected and delivered to the lab. Once the specimens were removed, the breast and then the axilla were closed.

Ms. Lochard entered the room at 3:05 pm, almost an hour after the specimens were collected. The surgery was almost done, with only the last part of the closing of the axilla left. The original circulating nurse and scrub tech's shifts ended, and Ms. Lochard took over as circulator. At that time, the procedure was for the circulating nurse and scrub tech to clean up everything in the room they could before they left. Sponges were kept on separate trays for each procedure, so there was a tray for the port placement, a tray for the breast lesion removal, and a tray for the lymph node resection. The first two procedures were done, so the sponges used for those procedures were gone. Ms. Lochard was informed of the number of sponges that were used for the lymph node procedure, and she was able to locate that number of sponges. The final count was also correct, based on the information Ms. Lochard was provided when she came in. As all the sponges noted to have been used were accounted for, Ms. Lochard reported to the surgeon that the count was correct.

We would like to point out that at the time of this procedure, Broward Health had just moved to a fully computerized system, and training on proper documentation using the system had not been done. It was common for people in the OR not to sign out of a case until it was over, so multiple people may have added entries on a chart under one person's name. Nurses either were not able or did not know how to add information to the surgery record other than what was prompted. There certainly was no way to note in the chart that one nurse had finished counts for one part of a procedure with multiple parts and separate tables for sponges, and another nurse did the other counts. In addition, when this surgery was done, although a count was typically done at shift change, there was no place in the records to document that count. Those issues were corrected soon after the retained sponge was identified in this case.

Although we do not believe that Ms. Lochard was responsible for the incorrect count in this case, in addition to helping incorporate the changes above after this occurred, Ms. Lochard also has taken additional steps to ensure a similar issue does not arise with other patients. In the OR, she ensures that nothing is thrown away until the end of the procedure, so a complete final count of all sponges and instruments can be performed. She is now able to add documentation to the chart to show exactly what parts of the procedure she attended, and is careful that she and others document clearly what counts they perform. Relief counts are documented in the chart. She talks to other nurses about how important it is to do all these things. In fact, Ms. Lochard did a presentation

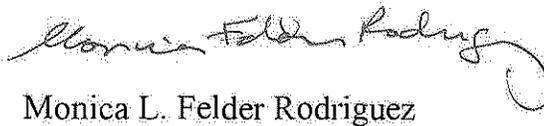
after this incident in her Department, to try to help other nurses and staff members understand why it is so important to correctly perform and document sponge and instrument counts, including keeping all items used in the surgical field until the surgery is complete and all counts have been done. Importantly, this surgery occurred more than three years ago, and Ms. Lochard has not been involved in any other similar cases. Ms. Lochard makes every effort in her practice of nursing to be an advocate for her patients, and wants to help ensure that another patient does not have an issue such as the one that occurred in this case.

For the reasons set forth above, we do not believe that the facts of this case prove that Ms. Lochard conducted an incorrect count of sponges during this case. Ms. Lochard was told how many sponges were supposed to have been used for the part of the case involving the axilla, and that was the number of sponges she found. It is very possible that either the initial count was incorrect (for example, that ten sponges were noted to have been used, but eleven were actually introduced), or that one of the sponges from one of the other procedures done that day was inadvertently left with the tray for the axilla procedure. It simply is not possible or fair at this time to discipline Ms. Lochard for performing an incorrect count in this case, where she had minimal involvement coming in when the final part of the case was ending, and where she did in fact locate all the sponges that were supposedly remaining in the case.

Ms. Lochard has been a nurse since 1999, and has worked as a circulating nurse in the operating room that entire time. She started working for Broward Health in 2004. In her seventeen years of practice, she has never before been in a situation like this, where a count was found to be incorrect, and has no prior discipline. We hope that the Department will agree that there is insufficient evidence in this case to establish that a violation occurred, and will dismiss the Administrative Complaint.

Thank you for your time and attention.

Very truly yours,

A handwritten signature in cursive script that reads "Monica L. Felder Rodriguez". The signature is written in dark ink and is positioned above the printed name.

Monica L. Felder Rodriguez

MLR/tmf

**STATE OF FLORIDA
BOARD OF NURSING**

CASE NUMBER: 2014-07943

COMPLAINT MADE BY: Suncoast Hospice
Attention: Kari Carruolo
5771 Roosevelt Boulevard
Clearwater, Florida 33760

DATE OF COMPLAINT: November 2, 2015

SUBJECT: Tara A. Schachter, L.P.N.
9700 Starkey Road, Apartment 324
Seminole, Florida 33777

SUBJECT'S ATTORNEY: N/A

INVESTIGATED BY: Antoinette F. Carter
Consumer Services Unit

REVIEWED BY: Marc D. Taupier
Assistant General Counsel

RECOMMENDATION Dismiss (4016)
Probable Cause Found, License Revoked,
Suspended or Voluntarily Surrendered as
a Result of a Prior Complaint

CLOSING ORDER

THE COMPLAINT: Complainant alleges that Subject violated Section 456.072(1)(x), Florida Statutes (2014), which provides that failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction is grounds for disciplinary action, and Section 464.018(1)(c), Florida Statutes (2014), which provides that being convicted or found guilty

of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing is grounds for disciplinary action.

THE FACTS: On March 10, 2016, the Department filed an Administrative Complaint (Complaint) in the above referenced case alleging that the Subject violated the above referenced statute.

Subject has relinquished her license in case number 2014-08210, and therefore, based on the foregoing, this panel directs that this case be closed without further prosecution.

THE LAW: Therefore, pursuant to Section 456.073(2), Florida Statutes, this case is hereby DISMISSED.

It is, therefore, ORDERED that this matter be, and same is hereby, DISMISSED.

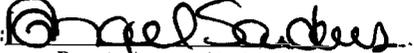
DONE AND ORDERED this _____ day of _____, 2016.

CHAIR, PROBABLE CAUSE PANEL
BOARD OF NURSING

/MDT

FILED DATE FEB 10 2016

Department of Health

By: 
Denise Agency Clerk

STATE OF FLORIDA
BOARD OF NURSING

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2014-08210

License No.: PN 5162937

TARA ANN SCHACHTER,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF NURSING (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on December 3, 2015, in Championsgate, Florida, for the purpose of considering a voluntary relinquishment (attached hereto as Exhibit A). Petitioner has filed an Administrative Complaint seeking disciplinary action against the license. A copy of the Administrative Complaint is attached to and made a part of this Final Order as Exhibit B. Upon consideration of the voluntary relinquishment, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED that the voluntary relinquishment is accepted as a resolution of this case.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 10th day of Feb,

2016.

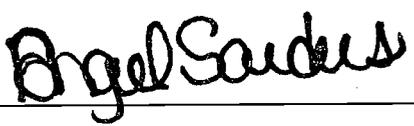
BOARD OF NURSING



Joe R. Baker, Jr.
Executive Director for
Jody Bryant Newman, EdD, EdS
Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to TARA ANN SCHACHTER, 9700 Starkey Road, Apt. 324, Seminole, Florida 33777; and by interoffice delivery to and by email to Dept. of Health - PSU, at Matthew.Witters@flhealth.gov and by email to Lee Ann Gustafson, Senior Assistant Attorney General, at LeeAnn.Gustafson@myfloridalegal.com this 10th day of February, 2016.



Deputy Agency Clerk

PRACTITIONER REGULATION
LEGAL

2015 AUG 25 PM 12:41

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK *Angel Sanders*
DATE SEP 29 2015

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2014-08210

TARA ANN SCHACHTER, L.P.N.,

Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent, **TARA ANN SCHACHTER, L.P.N.**, license number **5162937**, hereby voluntarily relinquishes Respondent's license to practice nursing in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this case. Respondent understands that acceptance by the Board of Nursing (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes. As with any disciplinary action, this relinquishment will be reported to the National Practitioner's Data Bank. Licensing authorities in other states may impose discipline in their jurisdiction based on discipline taken in Florida.

2. Respondent agrees to voluntarily cease practicing nursing immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of nursing until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written Final Order in this matter.

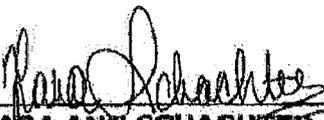
3. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in this case. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public.

4. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review, or to otherwise challenge or contest the validity of this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

5. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this case.

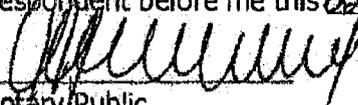
6. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

SIGNED this 22 day of August, 2015.

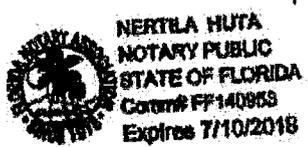

TARA ANN SCHACHTER, L.P.N.

STATE OF FLORIDA
COUNTY OF Pinellas

Before me personally appeared Tara A. Schachter whose identity is known to be by Florida driver's license (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed by Respondent before me this 22nd day of August, 2015.


Notary Public
My Commission Expires: 07/10/18

NST/tir



**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2014-08210

TARA ANN SCHACHTER, L.P.N.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Nursing against Respondent, Tara Ann Schachter, L.P.N., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of nursing pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 464, Florida Statutes.
2. At all times material to this Administrative Complaint, Respondent was a licensed practical nurse (L.P.N.) within the state of Florida, having been issued license number PN 5162937.

3. Respondent is licensed pursuant to Chapter 464, Florida Statutes, and is a health care practitioner as defined in Section 456.001(4), Florida Statutes.

4. Respondent's address of record is 9700 Starkey Road, Apartment 324, Seminole, Florida 33777.

5. On or about May 24, 2014, Respondent was stopped by Pinellas County Sheriff's officers, in Pinellas County Florida, for suspicion of driving under the influence.

6. On or about May 24, 2014, subsequent to Respondent's stop, the Pinellas County Sheriff's Office conducted a search of Respondent's person, which revealed an oral syringe filled with an orange liquid which Respondent identified as oxycodone, three 5 mg oxycodone pills and one 10 mg Oxycontin pill.

7. Oxycodone is commonly prescribed to treat pain. According to Section 893.03(2), Florida Statutes, oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of oxycodone may lead to severe psychological or physical dependence.

8. On or about May 24, 2014, in a post Miranda statement, Respondent admitted to the Pinellas County Sheriff's Office that the medication in her possession belonged to patients at her place of employment, SunCoast Hospice, which were not administered to the respective patients.

9. On or about May 24, 2014, Respondent was charged with possession of a controlled substance in violation of Section 893.13(6)(A), Florida Statutes; obtaining a controlled substance by deception or subterfuge in violation of Section 893.13(7)(A)9, Florida Statutes; and grand theft of prescription medications in violation of Section 812.014(2)(C)1. This case is still pending.

10. Section 464.018(1)(i), Florida Statutes (2013), provides that engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in Chapter 893, Florida Statutes, for any other than legitimate purposes, constitutes grounds for discipline.

11. As set forth above, Respondent engaged or attempted to engage in the possession, sale, or distribution of controlled substances as set forth in Chapter 893, Florida Statutes, for any other than legitimate purposes when she was found in possession of an oral syringe filled with

an orange liquid which Respondent identified as oxycodone, three 5 mg oxycodone pills and one 10 mg Oxycontin pill.

12. Based on the foregoing, Respondent violated Section 464.018(1)(i), Florida Statutes (2013), by engaging or attempting to engage in the possession of controlled substances as set forth in Chapter 893, Florida Statutes, for any other than legitimate purposes.

WHEREFORE, the Petitioner respectfully requests that the Board of Nursing enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 28th day of July, 2015.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health

N. Thomas

Natalia S. Thomas
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar Number 83826
Telephone: (850) 245 - 4444 ext. 8218
Facsimile: (850) 245 - 4662
Email: Natalia.Thomas@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE *JUL 29 2015*

/NST

PCP: *7/28/15*
PCP Members: *Habgood & Whitson*

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2014-07943

TARA A. SCHACHTER, L.P.N.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health ("Department"), by and through its undersigned counsel, and files this Administrative Complaint ("Complaint") before the Board of Nursing ("Board") against Respondent, Tara A. Schachter, L.P.N., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of nursing pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 464, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed practical nurse in the state of Florida, having been issued license PN 5162937.

3. Respondent's address of record is 9700 Starkey Road, Apartment 324, Seminole, Florida 33777.

4. Respondent is licensed pursuant to Chapter 464, Florida Statutes, and is a health care practitioner as defined in Section 456.001(4), Florida Statutes (2014).

5. On or about January 15, 2015, in the County/Circuit Court, in and for Pinellas County, Florida, Respondent entered a plea of guilty to one count of possession of drugs without a prescription, a misdemeanor in violation of Section 499.03(1), Florida Statutes.

6. Possession of drugs without a prescription is a crime which directly relates to the practice of nursing or to the ability to practice nursing.

7. On or about January 15, 2015, in the County/Circuit Court, in and for Pinellas County, Florida, Respondent entered a plea of guilty to one count of DUI/Cause Damage to Person/PR, a misdemeanor in violation of Section 316.193(3)(c)1, Florida Statutes.

8. Respondent was adjudicated guilty for the offenses set forth above in paragraphs five (5) and seven (7).

9. Respondent was adjudicated guilty for, and failed to report to the board, in writing, within 30 days after being adjudicated guilty of, the offenses set forth above in paragraphs five (5) and seven (7).

COUNT I

10. Petitioner realleges and incorporates paragraphs one (1) through nine (9) as if fully set forth herein.

11. Section 456.072(1)(x), Florida Statutes (2014), provides that the following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken: failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

12. As set forth above, Respondent was adjudicated guilty for, and failed to report to the board, in writing, within 30 days after being adjudicated guilty of, the offenses set forth above in paragraphs five (5) and seven (7).

13. Based on the foregoing, Respondent violated Section 456.072(1)(x), Florida Statutes (2014), by failing to report to the board, or the department if there is no board, in writing within 30 days after the

licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

COUNT II

14. Petitioner realleges and incorporates paragraphs one (1) through nine (9) as if fully set forth herein.

15. Section 464.018(1)(c), Florida Statutes (2014), provides that the following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2): being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing.

16. As set forth above, Respondent entered a plea of guilty to, and was adjudicated guilty of, one count of possession of drugs without a prescription, a misdemeanor in violation of Section 499.03(1), Florida Statutes, a crime which directly relates to the practice of nursing or the ability to practice nursing.

17. Based on the foregoing, Respondent violated Section 464.018(1)(c), Florida Statutes (2014), by being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a

~~crime in any jurisdiction which directly relates to the practice of nursing or~~
to the ability to practice nursing.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

WHEREFORE, the Petitioner respectfully requests that the Board of Nursing enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 9th day of March, 2016.

John H. Armstrong, MD, FACS
State Surgeon General and
Secretary of Health



Marc D. Taupier
Assistant General Counsel
Fla. Bar No. 106732
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin #C65
Tallahassee, FL 32399-3265
Telephone: (850) 245-4444
Facsimile: (850) 245-4683
Email: marc.taupier@flhealth.gov

FILED
Department Of Health
Deputy Clerk
Angel Sanders
CLERK
DATE MAR 10 2016

PCP: *March 9, 2016*
PCP Members: *Kemp + Glymph*

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

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Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

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Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

STATE OF FLORIDA
BOARD OF NURSING

BOARD: Nursing

CASE NUMBER: 2015-04051

COMPLAINT MADE BY: DCF
33 Brent Lane, Suite 104,
Pensacola, Florida 32503

DATE OF COMPLAINT: March 24, 2015

RESPONDENT: Diane Elaine Newhouse, LPN
8800 Pine Forest Road, #3204,
Pensacola, Florida 32534

RESPONDENT'S ATTORNEY William Strickland, Esq.
1700 North Monroe, Suite 11-344,
Tallahassee, Florida 32303

INVESTIGATED BY: Ben Lanier
Pensacola, ISU

REVIEWED BY: Rose Garrison
Assistant General Counsel

RECOMMENDATION: 4097
Reconsideration

CLOSING ORDER ON RECONSIDERATION

THE COMPLAINT: The Complaint alleged Subject violated Section 456.072(1)(n), Florida Statutes (2014), exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

The Complainant also alleged Subject violated Section 464.018(1)(h), Florida Statutes (2014), by engaging in unprofessional conduct as defined

by Rule 64B9-8.005(4), Florida Administrative Code, to include stealing from a patient.

THE FACTS: On November 4, 2015, the Department of Health filed a two count Administrative Complaint alleging that Subject exercised influence and/or stole all or part of \$1,500 from Patient R.R.

Since the filing of the administrative complaint in the above mentioned case, additional information has been obtained by the Department. The new evidence supports that Subject sent money orders to Patient R.R.'s address in the total of \$1,500. Patient R.R. only received two money orders in the total of \$300., before she subsequently moved to a new location. Subject's remaining money orders were sent to Patient R.R.'s original address and were not forwarded to Patient R.R.'s new location. The money orders retained their value during this investigation. Upon learning that Patient R.R. never received the money orders, Subject canceled the money orders and resent one money order in the full value owed to Patient R.R. On or about May 24, 2016, Patient R.R. received the full amount of \$1,500. Patient R.R. expressed to the Department that she no longer wishes to pursue allegations against Subject.

In light of the evidence available in this matter, it is recommended that this case be closed. The Panel therefore directs this case be dismissed.

LAW: There was sufficient evidence for the Panel to have found probable cause. However, based on the above facts, the Department, pursuant to the provisions of Section 20.43(3), Florida Statutes, has determined that there is insufficient evidence to support the continued prosecution of the allegations contained in the Administrative Complaint. Therefore, pursuant to Section 456.073(2), Florida Statutes, this case is hereby DISMISSED.

It is, therefore, ORDERED that this matter be, and same is hereby, DISMISSED.

DONE AND ORDERED this _____ day of _____, 2016.

CHAIRPERSON, PROBABLE CAUSE PANEL
BOARD OF NURSING

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Ms. Rosalee Hyland-Roberts
 5463 Cherub Circle
 Milton, FL 32583



9590 9402 1667 6053 5340 53

2. Article Number (Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Rosalee Roberts* Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

5-25-16

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2015-04051

DIANE ELAINE NEWHOUSE, L.P.N.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Nursing against Respondent, Diane Elaine Newhouse, L.P.N., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of nursing pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 464, Florida Statutes.

2. At all times material to this Administrative Complaint, Respondent was a licensed nurse practitioner (L.P.N.) within the state of Florida, having been issued license number PN 5179136.

3. Respondent's address of record is 8800, Pine Forest Road, #3204, Pensacola, Florida 32534.

4. It is believed the Respondent may reside at 1309 Dexter Avenue, Pensacola, Florida 32507.

4. At all times material to this Administrative Complaint, Respondent worked for Veranda at Pensacola, Inc. (hereinafter, "Veranda.")

5. At all times material to this Administrative Complaint, R.R. was an 85 year old female patient of Veranda.

6. On or about June 4, 2014, R.R. loaned Respondent four-hundred dollars (\$400) at Respondent's request.

7. On or about June 21, 2014, R.R. loaned Respondent six-hundred dollars (\$600) at Respondent's request.

8. On or about July 27, 2014, R.R. loaned Respondent five-hundred dollars (\$500) at Respondent's request.

9. Respondent failed to pay R.R. back all or part of the \$1,500.

COUNT I

10. Petitioner re-alleges and incorporates paragraphs one through nine, as if fully set forth herein.

11. Section 456.072(1)(n), Florida Statutes (2014), provides that exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party, constitutes grounds for disciplinary action.

12. Respondent exercised influence on R.R. for Respondent's financial gain by requesting on three different occasions, within a short period of time, to borrow money from R.R. and failing to pay her back. Respondent asked to borrow money after telling R.R. of Respondent's hardships. Respondent borrowed a total of one thousand, five hundred dollars from R.R.

13. Based on the foregoing, Respondent violated Section 456.072(1)(n), Florida Statutes (2014), exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

COUNT II

14. Petitioner re-alleges and incorporates paragraphs one through nine, as if fully set forth herein.

15. Section 464.018(1)(h), Florida Statutes (2014), provides that unprofessional conduct as defined by board rule constitutes grounds for disciplinary action.

16. Rule 64B9-8.005(4), Florida Administrative Code, provides that unprofessional conduct includes stealing from a patient.

17. Respondent engaged in unprofessional conduct by stealing all or part of the \$1,500 dollars R.R. loaned Respondent.

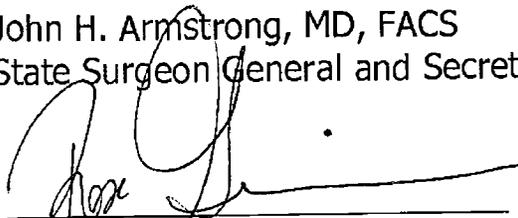
18. Based on the foregoing, Respondent violated Section 464.018(1)(h), Florida Statutes (2014), by engaging in unprofessional conduct as defined by Rule 64B9-8.005(4), Florida Administrative Code, to include stealing from a patient.

[Remainder of this page intentionally left blank]

WHEREFORE, the Petitioner respectfully requests that the Board of Nursing enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 3 **day of** November, **2015.**

John H. Armstrong, MD, FACS
State Surgeon General and Secretary of Health



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Assistant General Counsel
Fla. Bar No. 105920
Florida Department of Health
Office of the General Counsel
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Email: rose.garrison@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK Angel Sanders
DATE NOV 04 2015

PCP: November 3, 2015

PCP Members: Kirkpatrick & Forst

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.