

Certified True Copy



RECEIVED

DEC 16 2016

By [Signature]
Virginia Board of Nursing

VA BD OF NURSING

COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions

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

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

December 15, 2016

Ondrej Spacek, R.N.
11 Pine Hill Road
Easthampton, MA 01027

DUPLICATE COPY
VIA FIRST CLASS MAIL

DATE 12/15/16

RE: License Number: 0001-251482
Case Number: 177631

Dear Mr. Spacek:

Pursuant to Virginia Code § 54.1-2409, you are hereby given notice that your license to practice professional nursing in the Commonwealth of Virginia has been mandatorily suspended by the enclosed Order entered December 15, 2016. You are hereby advised that you may not practice professional nursing or hold yourself out as a licensed professional nurse unless and until the Board of Nursing has notified you in writing that your license has been reinstated. Please return your license to Jay P. Douglas, Executive Director of the Virginia Board of Nursing ("Board"), at the above address, immediately upon receipt of this letter.

You may apply to the Board for reinstatement of your license, and you shall be entitled to a formal administrative hearing not later than the next regular meeting of the Board after the expiration of 60 days from the Board's receipt of your reinstatement application. The reinstatement of your license shall require the affirmative vote of three-fourths of the members of the Board present at the hearing. The reinstatement application can be found at www.dhp.virginia.gov/Nursing.

If you have any questions about this matter, you can contact me at (804) 367-4474 or anne.joseph@dhp.virginia.gov.

Sincerely,

Anne Joseph

Anne Joseph, Deputy Director
Administrative Proceedings Division

cc: Jay P. Douglas, Executive Director, Board of Nursing
Enclosures

BEFORE THE VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS

IN RE: ONDREJ SPACEK, R.N.
License Number: 0001-251482
Case Number: 177631

ORDER OF MANDATORY SUSPENSION


In accordance with Virginia Code § 54.1-2409, I, David E. Brown, D.C., Director of the Virginia Department of Health Professions, received and acted upon evidence that the license of Ondrej Spacek, R.N., to practice professional nursing in the Commonwealth of Massachusetts was suspended by the Massachusetts Board of Registration in Nursing. A certified copy of the Final Notice of Suspension is attached hereto as Commonwealth's Exhibit 1.

WHEREUPON, by the authority vested in the Director of the Department of Health Professions pursuant to Virginia Code § 54.1-2409, it is hereby ORDERED that the license of Ondrej Spacek, R.N., to practice professional nursing in the Commonwealth of Virginia is hereby SUSPENDED.

Upon entry of this Order, the license of Ondrej Spacek, R.N., will be recorded as suspended and no longer current and valid. Should Ondrej Spacek, R.N., seek reinstatement of his license pursuant to Virginia Code § 54.1-2409, he shall be responsible for any fees that may be required for the reinstatement of the license prior to issuance of the license to resume practice.

This Order shall be applicable to Mr. Spacek's multistate licensure privilege, if any, to practice professional nursing in the Commonwealth of Virginia.

Pursuant to Virginia Code § 2.2-4023 and § 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public inspection or copying on request.




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

ENTERED:

12/15/16

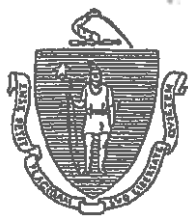
CERTIFICATION OF DUPLICATE RECORDS

I, David E. Brown, D.C., Director of the Department of Health Professions, hereby certify that the attached Final Notice of Suspension entered November 8, 2016, regarding Ondrej Spacek, R.N., is a true copy of the records received from the Massachusetts Board of Registration in Nursing.



David E. Brown, D.C.

Date: 12/15/16



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Health Professions Licensure
Board of Registration in Nursing
239 Causeway Street, Suite 500, Boston, MA 02114

Tel: 617-973-0900
TTY : 617-973-0988
<http://www.mass.gov/dph/boards/rn>



MARYLOU SUDDERS
Secretary
MONICA BHAREL, MD, MPH
Commissioner

November 8, 2016

Ondrej Spacek



Certified mail 7016 0340 0000 4975 9117

RE: In the Matter of Ondrej Spacek
LN License No. 282440
NUR-2014-0187



I do hereby certify the foregoing to be a true and
certified copy of the document on file with the
Massachusetts Board of Registration in Nursing.

[Signature] 12/14/16
Authorized Signature Date

FINAL NOTICE OF SUSPENSION

Dear Mr. Spacek:

On July 22, 2014, you entered into a Consent Agreement for SARP Participation ("Agreement") with the Board of Registration in Nursing ("Board"). A copy of the Agreement is enclosed with this letter.

On October 28, 2016, the Board sent you a Notice of Violation and Further Discipline ("Notice") to your address of record. A copy of the Notice is enclosed with this letter. The Notice informed you that you are in violation of the Agreement and listed the facts supporting the determination that you are in violation. The Notice also informed you that the Board intended to exercise its discretion under the Agreement and suspend your license. The Notice informed you that you had a right to a hearing on the limited issue of whether you are in compliance with, or in violation of, the terms of the Agreement. Lastly, the Notice informed you that to claim your right to a hearing, you needed to submit a written statement of facts and request for a hearing within seven (7) days.

As of the date of this letter, the Board has not received from you a written statement of facts and request for a hearing. Accordingly, you have waived your right to a hearing.

Effective November 8, 2016, pursuant to paragraph 8 of the Agreement, the Board **SUSPENDS** your license to practice nursing for no less than three (3) years. You may not practice as a nurse in Massachusetts until the Board provides you written notice that it has reinstated your license.

You may petition the Board to reinstate your license in three (3) years and when you can provide documentation of your full and sustained recovery. Please review paragraph 11 of the Agreement for guidance on information and documents that you will need to include with your petition. You may also contact Traci Westgate at (617)973-0894 if you have any questions regarding license reinstatement.

This notice constitutes a final agency action. You are hereby notified that you have a right to appeal this *Final Notice of Suspension* within thirty (30) days of your receipt of this notice, either to the Superior Court for Suffolk County or the county where you reside pursuant to M.G.L. c. 30A, § 14, or to the Supreme Judicial Court pursuant to M.G.L. c. 112, §64.

Sincerely,

A handwritten signature in black ink, appearing to read "Lorena M. Silva", with a long, sweeping horizontal line extending to the right.

Lorena M. Silva, MSN-L, MBA, DNP, RN
Executive Director
Board of Registration in Nursing

Enclosures



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Health Professions Licensure
Board of Registration in Nursing
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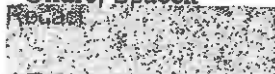
MARYLOU SUDDERS
Secretary

MONICA BHAREL, MD, MPH
Commissioner

Tel: 617-624-6000
www.mass.gov/dph

October 28, 2016

Ondrej Spacek



Certified mail 7016 0340 0000 4975 9148

RE: In the Matter of Ondrej Spacek
LN License No. 282440
NUR-2014-0187



I do hereby certify the foregoing to be a true and
certified copy of the document on file with the
Massachusetts Board of Registration in Nursing.

Authorized Signature

Date

NOTICE OF VIOLATION AND FURTHER DISCIPLINE

Dear Mr. Spacek:

On July 22, 2014, you entered into a Consent Agreement ("Agreement") for SARP Participation with the Board of Registration in Nursing ("Board"). A copy of the Agreement is enclosed with this letter for your review.

You are in violation of the Agreement. Under Paragraph seven (7) of the Agreement, the Board may impose further discipline against your license in the event that you violate any provision of the Agreement. You are hereby notified that the Board will exercise its discretion under the Agreement and **SUSPEND** your license, effective in 7 days.

The basis for the Board's contention that you are in violation of the Agreement are as follows:

1. Per paragraph (4)a and Attachment A of the Agreement, you were required to Abstain from the use of alcohol and all substances of abuse or substances with potential for abuse.
 - On June 28, 2016 you submitted a urine sample which tested positive for Phosphatidylethanol.

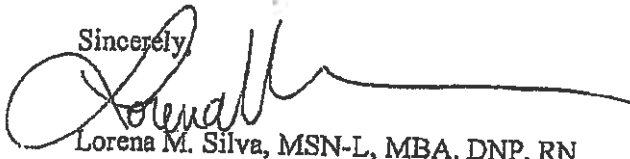
You have a right to a hearing on the limited issue of whether you are in compliance with, or in violation of, the terms of the Agreement. You may claim your right to a hearing by submitting a

written statement to the Board within seven (7) days of receipt of this letter. Your written statement must include facts, which support the determination that you are in compliance, and not in violation, with the provisions of the Agreement identified above. Your written statement must also include a request for a hearing. Please send your written statement to:

Beth A. Oldmixon, Esq.
Board Counsel
Board of Registration in Nursing
239 Causeway Street, Suite 500
Boston, MA 02114

Failure to submit a written statement of facts and request for a hearing within seven (7) days shall constitute a waiver of your right to a hearing on the issue of your violation of the Agreement.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lorena', with a long horizontal flourish extending to the right.

Lorena M. Silva, MSN-L, MBA, DNP, RN
Executive Director
Board of Registration in Nursing

Enclosures

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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN NURSING

In the Matter of
Ondrej Spacek
RN License No. 282440
Expires: 1/18/2016

Self-Referral
SARP Reference No. R-14-059

CONSENT AGREEMENT FOR SARP PARTICIPATION

The Massachusetts Board of Registration in Nursing (Board) and Ondrej Spacek (Licensee), a Registered Nurse (RN) licensed by the Board, License No. 282440, do hereby stipulate and agree that the following information shall be entered into the Licensee's record maintained by the Board:

1. The Licensee admits that he has a substance abuse problem and that said substance abuse impairs his ability to practice nursing in a safe and competent manner. Specifically, he admits that while employed as a Registered Nurse at Baystate Medical Center in Springfield, MA, during or about May 2013 through May 2014, the diverted Dilaudid for his own personal use. The Licensee acknowledges that his conduct constitutes failure to comply with the Board's Standards of Conduct at 244 Code of Massachusetts Regulations (CMR) 9.03 (5), (35), (37), and (47) and warrants disciplinary action by the Board under Massachusetts General Laws (G.L.) Chapter 112 § 61 and Board regulations at 244 CMR 7.04, Disciplinary Actions.
2. Pursuant to Massachusetts General Laws ("G.L.") Chapter 112, section 80F, the Board established the Substance Abuse Rehabilitation Program ("SARP") as an alternative to standard disciplinary action. The Board and the Licensee agree that he will participate in SARP as a voluntary alternative to the Board seeking prosecution for the immediate suspension of his license.
3. The Licensee agrees to maintain a current license while participating in SARP.
4. During the time that the Licensee is participating in SARP, he further agrees that he shall comply with all of the following requirements to the Board's satisfaction:
 - a. Abstain from the use of alcohol and *all* substances of abuse or substances with potential for abuse.

- b. Provide written verification from each treatment provider, including, but not limited to primary care physicians, dentists, psychiatrists, and therapists that he/she has reviewed this document.
- c. If prescribed any controlled substance, or when taking over-the-counter (OTC) medications, notify the SARP Coordinator and the Drug Testing Management Company (DTMC) within five (5) days and submit directly to the SARP Coordinator and the DTMC a written statement of the identity and amount of each controlled substance prescribed, and medical necessity for said prescription, and agree to follow medical advice to minimize the risk of relapse.
- d. Participate in individual therapy/substance abuse counseling at least twice per month for two years or until such time as Licensee is discharged by the attending therapist in collaboration with the SARP Coordinator. The Licensee understands that all therapists and treatment providers must be approved by SARP and acknowledge in writing his/her willingness to regularly report to SARP on the Licensee's progress. In addition, the Licensee understands that he is responsible for the timely submission of all progress reports by his treatment provider(s), utilizing the standardized SARP form, to the Substance Abuse Rehabilitation Evaluation Committee (SAREC). Licensee further understands that his therapist will notify SARP immediately with concerns.
- e. Advise the SARP Coordinator in writing within ten (10) days of any change in treatment provider(s), therapist(s), or counselor(s).
- f. Notify the SARP Coordinator in writing within ten (10) days in any change of name, address or other personal data pursuant to Board regulations at 244 CMR 9.03 (27).
- g. Participate weekly in a professional Peer Support Group, approved by SARP, for the length of the SARP program.
- h. Attend at least four (4) twelve-step meetings each week, and actively participate in said program (including, but is not limited to, obtaining a sponsor, joining a "home" group), or participate in a SARP approved alternative program, and notify the SARP Coordinator in writing immediately thereafter of participation.

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- i. Attend all SAREC monitoring meetings as scheduled and notify the SARP Coordinator in writing if unable to attend.
- j. Have submitted directly to the SARP Coordinator, according to the conditions and procedures outlined in Attachment A of this Agreement, the results of random, supervised urine tests for substances of abuse, all of which are required to be negative.
 - (i) Comply with the additional condition of observed urine collection as determined necessary by the SARP Coordinator.
- k. Report to the SARP Coordinator any incident of relapse within twenty-four (24) hours of said incident. In addition, the Licensee understands that he must follow the relapse protocol as delineated in the SARP Relapse Management Policy.¹
- l. Refrain from practice as a nurse for a minimum of one (1) year and agree to have his paper nursing license held by the SARP Coordinator. Further, Licensee agrees not to return to practice unless and until the SARP Coordinator notifies Licensee that his privilege has been restored.
- m. After the SARP Coordinator notifies the Licensee that he may resume nursing practice, the Licensee agrees to comply with all restrictions placed on his practice by the SAREC.²
- n. Agree to provide a copy of this Consent Agreement and any Consent Agreement amendments to all nursing supervisors.
- o. Agree to obtain and forward progress reports of Licensee's job performance from his employer to the SARP Coordinator utilizing the standardized SARP form.
- p. Notify the SARP Coordinator prior to any change in job description, employer, and provide the name, address and telephone number of each new employer.
- q. Request in writing any changes to nursing practice restrictions.

¹ See SARP Relapse Management Policy, 06-001

² Restrictions include, but are not limited to, no patient contact, no access to medications, no overtime, no overnight shifts, no access to narcotics, no double shifts.

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- r. Immediately report to the SARP Coordinator any arrest and/or conviction of any offense. Licensee understands that SARP will report any conviction to the Board and that the Board will determine if a new complaint against the Licensee's nursing license will be opened based on that conviction.
 - s. Submit documentation that he has successfully completed nine (9) contact hours of continuing education³ within one (1) year after the Effective Date of this Agreement on one or more of the following topics: psycho-pharmacology of addiction; the disease concept of addiction; denial and other defenses related to substance abuse; relapse prevention; the family disease concept of addiction; and the addicted professional.
5. Licensee understands that his employer will be notified by the SARP Coordinator in the event of a relapse or other inability to practice nursing in a safe manner. The Licensee acknowledges that formal discharge from the SARP will take place only upon completion of the program, the recommendation by SAREC and approval of the Board.
 6. The Board agrees that in return for the Licensee's execution and successful compliance with all the requirements of this Agreement, the Licensee's SARP participation will terminate upon written notice to the Licensee from the Board and the Licensee's record will be sealed.
 7. If the Licensee does *not* comply with each requirement of this Agreement, the Board, upon written notice to the Licensee, and as warranted to protect the public health, safety, or welfare will SUSPEND the licensee's nursing license.
 8. If the Board opens a subsequent complaint⁴ during the Licensee's participation in SARP, the Board, upon written notice to the Licensee will SUSPEND the Licensee's nursing license.
 9. The Licensee agrees that if the Board suspends his nursing license in accordance with Paragraph 7 he will immediately return his current Massachusetts license to practice as a Registered Nurse to the Board, by hand or certified mail. Upon said suspension, he will no longer be authorized to engage in the practice of nursing in the Commonwealth of Massachusetts and shall not in any way represent himself

³ These contact hours may be applied to the contact hours required for license renewal. They may be taken as home study or as correspondence course, *provided that* they meet the requirements of Board Regulations at 244 CMR 5.00, Continuing Education.

⁴ The term "Subsequent Complaint" applies to a complaint opened after the Effective Date, which (1) alleges that the Licensee engaged in conduct that violates Board statutes or regulations, and (2) is substantiated by evidence, as determined following the complaint investigation during which the Licensee shall have an opportunity to respond.

SARP Agreement

Andrew Spack, RN 282440

Self-Referral

CONFIDENTIAL UNLESS VIOLATED

as a Registered Nurse until such time as the Board reinstates his nursing license or right to renew such license⁵.

10. The Licensee understands that any SUSPENSION of his nursing license in accordance with this Agreement shall be for a minimum of three (3) years, commencing with the Effective Date of the notice of SUSPENSION. After a three (3) year period of license SUSPENSION, the Licensee may petition the Board in writing for reinstatement of his RN license. With such petition, the Licensee shall submit documentation satisfactory to the Board of his ability to practice nursing in a safe and competent manner as delineated in Paragraph 11 below.
11. The Licensee agrees that together with any request for license reinstatement he shall provide all of the following to the satisfaction of the Board:
 - a. Have submitted directly to the Board, according to the conditions and procedures outlined in Attachment A, the results of his random supervised urine tests for substances of abuse, collected no less than fifteen (15) times per year during the two (2) years immediately preceding any petition for reinstatement, all of which are required to be negative.
 - b. Documentation that he has obtained a sponsor and has regularly attended Alcoholics Anonymous (AA) and/or Narcotics Anonymous (NA) meetings at least three (3) times per week during the two (2) years immediately preceding any petition for license reinstatement, such documentation to include a letter of support from his sponsor and signatures verifying this required attendance.
 - c. Documentation verifying that he has regularly attended group or individual counseling or therapy, or both, conducted by a licensed mental health provider during the two (2) years immediately preceding any petition for reinstatement. Such documentation shall be completed by each licensed mental health provider seen by the Licensee, and shall be written within thirty (30) days preceding any petition for reinstatement and sent directly by the provider to the Board.
 - d. Written verification from his primary medical care provider and any other licensed health care professional(s) with whom he may have consulted, written within thirty (30) days preceding any petition for license reinstatement, that the Licensee is medically able to resume the safe and competent practice of nursing, including a list of all prescribed medications and the medical necessity for each.

⁵ Any evidence of unlicensed practice or misrepresentation as a Registered Nurse after the Board has notified the Licensee of his license suspension shall be grounds for further disciplinary action by the Board and the Board's referral of the matter to the appropriate law enforcement authorities for prosecution, as set forth in G.L. c. 112, §§ 65 and 80.

- e. If employed during the year immediately preceding Licensee's petition for license reinstatement, have each employer from said year submit on official letterhead an evaluation reviewing Licensee's attendance, general reliability, and overall job performance⁶.
- f. Evidence of completion of all continuing education required by Board regulations within the two (2) license renewal cycles immediately preceding any reinstatement petition.
- g. Certified Court and/or Agency documentation that there are no pending actions or obligations, criminal or administrative, against the Respondent before any court or Administrative Agency including, but not limited to:
 - 1. Documentation that *at least one (1) year prior to any petition for reinstatement* the Respondent satisfactorily completed all court requirements (including probation) imposed on him in connection with any criminal matter and a description of those completed requirements and/or the disposition of such matters;⁷ and
 - 2. Certified documentation from the state board of nursing of each jurisdiction in which the Licensee has ever been licensed to practice as a nurse, sent directly to the Massachusetts Board identifying his license status and discipline history, and verifying that his nursing license is, or is eligible to be, in good standing and free of any restrictions or conditions.
- 12. The Board may choose to relicense the Licensee if the Board determines that relicensure is in the best interests of the public at large. The Board's approval of Licensee's petition for relicensure shall be conditioned upon, and immediately followed by, probation of Licensee's nursing license for a minimum of two (2) years, as well as other restrictions and requirements that the Board may then determine are reasonably necessary in the best interests of the public health, safety, and welfare.
- 13. The Licensee understands that he has a right to formal adjudicatory hearing concerning the allegations against him and that during said adjudication he would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, to appeal to the courts, and all other rights as set forth in the

⁶ If Licensee wasn't employed at all during this period, submit an affidavit so attesting.

⁷ The Licensee shall also provide, if requested, an authorization for the Board to obtain a Criminal Offender Record Information (CORI) Report of the Licensee conducted by the Massachusetts Criminal History Systems Board and a sworn written statement that there are no pending actions or obligations, criminal or administrative, against the Licensee before any court or administrative body in any other jurisdiction.

SARP Agreement

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Massachusetts Administrative Procedures Act, G. L. c. 30A; and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.* The Licensee further understands that by executing this Agreement he is knowingly and voluntarily waiving his right to a formal adjudication of the complaint.

14. The Licensee acknowledges that he has been at all times free to seek and use legal counsel in connection with the complaint and this Agreement.
15. The Licensee acknowledges that if the Board SUSPENDS his nursing license pursuant to this Agreement, the Agreement constitutes a public record of disciplinary action by the Board. The Board may forward a copy of this Agreement to other licensing boards, law enforcement entities, and other individuals or entities as required or permitted by law.
16. The Licensee certifies that he has read this Agreement. The Licensee understands and agrees that entering into this Agreement is a final act and not subject to reconsideration, appeal or judicial review.

Caron Marie Robertson, MSN 7/18/14
Witness (sign and date)

Caron Marie De Vaux, MSN
Witness (print name)

July 21, 2014
Effective Date of Agreement

Ondrej Spacek 07-18-2014
Licensee (sign and date)

Caron Robertson
Caron Robertson, MSN, RN
Deputy Executive Director
Board of Registration in Nursing

Fully Signed Agreement Sent to Licensee on July 22, 2014 by Certified
Mail No. 7014 0510 0001 0375 0547



I do hereby certify the foregoing to be a true and certified copy of the document on file with the Massachusetts Board of Registration in Nursing.

[Signature] 12/14/16
Authorized Signature Date