

IN THE MATTER OF

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BEFORE THE MARYLAND

JANA SHAMBAUGH

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BOARD OF NURSING

Certificate No.: A00181096

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OAG Case No.: 22-BP-008

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**ORDER FOR SUMMARY SUSPENSION OF CERTIFIED NURSING ASSISTANT
CERTIFICATE PURSUANT TO SECTION 10-226(c)(2) OF THE ADMINISTRATIVE
PROCEDURE ACT**

The Maryland Board of Nursing (the "Board") hereby orders the **SUMMARY SUSPENSION** of the certificate of **JANA SHAMBAUGH**, (the "Respondent"), Certificate Number **A00181096** to practice as a certified nursing assistant in the State of Maryland. The Board takes this action pursuant to the authority of Maryland Code Ann., State Government Article ("SG") § 10-226(c)(2) (2021 Repl. Vol.), which provides:

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

The Board has reason, as set forth below, to find that the public health, safety, or welfare imperatively requires emergency action ("SG") § 10-226(c) (2).

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**INVESTIGATIVE FINDINGS AND REASONS IN SUPPORT OF SUMMARY
SUSPENSION**

Based on investigatory information obtained by, received by and made known to and available to the Board, the Board has reason to believe that the following facts are true:¹

1. On or about March 5, 2019, the Board issued the Respondent a certificate to practice as a certified nursing assistant (“CNA”) in the State of Maryland. The Respondent’s CNA certificate is currently “Non-Renewed” having expired on May 28, 2021.
2. On January 17, 2019, the Board received a complaint regarding the Respondent’s practice. The Complaint was sent in by the Respondent’s employer, a state run licensed Intermediate Care Facility (ICF) and Secure Evaluation and Therapeutic Treatment (SETT) center. The complaint stated in part:

Jana was sent to our clinic site for drug testing that was required for a promotion. Her drug test was positive for cocaine. The positive drug screen does not allow her to get the promotion at this time. Additionally, she has not received her permanent certification² that follows her 90-day letter which is related to a DUI on her background check[.]

3. By letter dated February 8, 2019, the Board notified the Respondent of the complaint and invited her to participate in the Board’s Safe Practice Program (“Program”).
4. On or about February 12, 2019, the Respondent submitted an Application to the Program. On the Application, the Respondent listed that she was currently taking ³ and

¹ The allegations set forth in this document are intended to provide the Respondent with reasonable notice of the Board’s action. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this action.

² At the time of the complaint, the Respondent had applied to the Board for CNA certification and had been granted a “90-day letter” from the Board. The 90-day letter allows applicants to work for 90-180 days while the Board processes their application.

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⁴ At no time did the Respondent provide a copy of a valid prescription for the listed medications.

5. On February 14, 2019, Respondent entered into a Participation Agreement (“Agreement”) with the Program. The Agreement was to remain in effect for five (5) years, after which time the Respondent could petition for removal of all conditions.

6. As part of the Agreement, the Respondent agreed to:

....
(9) Within two weeks of signing this agreement, the treatment program/treatment provider shall submit in writing to the Committee verification that they have reviewed this agreement. I am responsible for returning the verification to the Committee;

....
(13) I shall attend a minimum of two support group meetings (such as AA, NA, Celebrate Recovery) weekly and secure a sponsor within 1 month of signing this agreement. I will submit signed attendance sheets to the Committee **monthly**;

....
(15) I shall arrange for **random monthly toxicology screens**, through any entity selected by the Safe Practice Committee (**FIRSTSOURCE SOLUTIONS**). I understand that I am required to register with the identified provider **within 7 days** from the date of this agreement. These screens shall be not less than twice monthly, and can be up to **36-40 times per year**. My employer, treatment program/treatment provider, or the Committee may request a random drug screen at any time. I understand the screening results/reports from employers and treatment providers will not replace or substitute my required tests for the Board of Nursing. Any positive drug screens/breathalyzer shall be reported to the Committee and will be considered a violation of this agreement. **I understand that toxicology screens must continue until I am discharged from the Committee, in writing;**

(16) It is my responsibility to instruct the laboratory and treatment program to send a copy of all toxicology screens to the Committee, and to notify the Committee of a positive or missed toxicology screen or unsatisfactory

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work/treatment reports. A missed toxicology screen will be considered a positive toxicology screen;

- (17) I shall provide the Committee with **written (quarterly) progress reports** evaluating my progress towards rehabilitation and elaborating on my recovery program. *These reports are to be submitted even if I may not be working at all or not working in the field of nursing;*
- (18) I shall arrange for my **employer and treatment provider**, including all prescribing physicians, to provide **written (quarterly) progress reports** regarding my compliance and progress toward rehabilitation. It is my responsibility to notify all employers and providers when these reports are due. These reports must reflect my compliance, progress towards rehabilitation, and work performance. The reports are to be submitted even though I may not be working in the field of nursing;
- (19) Should I be prescribed any medication, I will notify the Committee **immediately**, in writing, and send a copy of the prescription to the Committee within 48 hours of the prescribed date. I agree to show this Participation Agreement to any health care provider who prescribes for me including, but not limited to pain management clinicians, dentists, and emergency and urgent care providers. If I am prescribed any controlled dangerous substances or mood-altering medications, I will, in addition to notifying the Committee, obtain a copy of the medical record pertaining to the condition which necessitated the prescription and submit it to the Committee. I agree not to take any mood-altering drugs unless it has been approved by my program/treatment provider.
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- (24) I understand that non-compliance with this agreement shall be grounds for Program expulsion and may result in immediate suspension of my [certificate] to practice nursing. Should expulsion from the Program occur, I understand that a formal investigative report, along with all Safe Practice Program records will be forwarded to the Board of Nursing for consideration and decision for potential disciplinary action[.]

7. On February 14, 2019, the Respondent reviewed the Agreement with staff and signed all required releases of information and an Affidavit & Acknowledgement of Safe Practice Agreement stating:

I, Jana Shambaugh, hereby acknowledge that I have reviewed my Safe Practice Agreement dated 2/14/2019 and I understand the terms of my Agreement reviewed with me on 2/14/2019 with Safe Practice Committee member . . .

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I further acknowledge that each document (i.e. worksite, self-report) have been fully explained to me. I have received all documents required by the Safe Practice Committee for submission to comply with the terms of my Agreement.

8. Also on February 14, 2019, the Respondent was provided with an executed copy of the Agreement and reminded that it was her responsibility to be sure that all written reports were submitted by all the parties specified in the Agreement. Her first quarterly reports were due on March 1, 2019, and every three months thereafter.

Monthly Random Toxicology Screens

9. On or about February 27, 2019, the Respondent enrolled with First Source Solutions for toxicology screens.
10. Between February 27, 2019, and December 12, 2019, the Respondent:
 - Failed to check in to the First Source Solutions application on at least twenty-seven (27) occasions.
 - Had a positive test for amphetamine⁵ on 7 occasions: May 23, 2019; August 26, 2019, September 12, 2019; September 25, 2019; October 5, 2019; October 10, 2019; and November 13, 2019.
 - Failed to submit to a toxicology screen on October 15, 2019, November 14, 2019, and December 2, 2019.
 - Submitted her last toxicology screen on or about November 13, 2019.

Quarterly Self-Reports

11. The Respondent submitted one (1) of four (4) required self-reports dated August 30, 2019
12. The Committee has not received any self-reports since August 30, 2019.

Quarterly Treatment Reports

13. The Committee never received a Treatment Program/Provider Verification Form from the Respondent's treatment provider (the "Provider").

⁵ There is no indication that the Respondent provided the Committee with a copy of the prescription, or a copy of the medical record pertaining to the condition, which necessitated the use of the prescription medication present in her sample.

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14. The Respondent failed to have her treatment provider submit all required treatment reports to the Committee. The Provider submitted one of two required reports on March 4, 2019 (due March 1, 2019).
15. The Provider submitted a discharge report to the Committee on August 12, 2019.

Support Group Meetings

16. The Respondent was required to attend a minimum of two (2) support group meetings per week and submit signed attendance sheets to the Committee monthly.
17. Instead of submitting the signed attendance sheets monthly as stated in the Agreement, the Respondent submitted the signed attendance sheets with her self-reports (March 4, 2019, August 12, 2019).
18. The Respondent submitted attendance sheets to support the following:
 - February 2019 – attended 4 meetings of minimum 6 required
 - March 2019 – attended 1 meeting of minimum 8 required
 - April 2019 – attended 0 meetings of minimum 8 required
 - May 2019 – attended 0 meetings of minimum 10 required
 - June 2019 – attended 4 meetings of minimum 8 required
 - July 2019 – attended 4 meetings of minimum 10 required
 - August 2019 – attended 2 meetings of minimum 8 required
 - The Respondent provided no evidence that she attended any support groups after August 12, 2019.
19. The Respondent failed to provide documentation that she was able to secure a sponsor within one (1) month of signing the Agreement.

Quarterly Worksite Reports

20. The Respondent submitted one (1) of three (3) required work site reports dated June 1, 2019.
21. In an email dated November 26, 2019, the Respondent informed Board staff that she quit her job.

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Expulsion from the Program

22. By letter dated November 26, 2019, the Respondent was notified that she was scheduled to meet with the Committee on December 12, 2019.
23. On November 26, 2019, the Respondent sent an email that stated in part:
- Hi, I will not be [at the Committee meeting on December 12, 2019]. The site started testing me to [sic] many times and then 2 of my tests didn't even make it to the lab or lab did not do them right [t]hat they didn't show up. I don't have the money to keep paying at [testing site] and then not even to be sent or received. So I quit my job. I couldn't deal with it for another 4 years. I'm not gonna use my CNA anymore[.]
24. In a second email sent later on November 26, 2019, the Respondent added that she "changed [c]areer fields completely. I will no longer need [my CNA certificate], nor would [sic] be applying for it again."
25. By letter dated January 10, 2020, the Respondent was notified that she was expelled from the Program for non-compliance with the Agreement and that the Committee could no longer consider her safe to practice as a CNA.

DISCUSSION

26. In January 2019, the Board received a complaint that the Respondent submitted a urine drug screen for her employer that was positive for cocaine. In February 2019 she entered into the Board's Safe Practice Program. During the nine (9) months she was in the Program, she was non-compliant with the reporting requirements and tested positive for amphetamines on seven (7) occasions. On December 12, 2019, the Respondent was expelled from the Program.
27. While the Respondent's CNA certificate is currently non-renewed, there is nothing preventing her from renewing it at any time. Consequently, the Respondent's continued

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unmonitored practice here in Maryland poses a serious risk and danger to the public health, safety and welfare.

CONCLUSION OF LAW

Based on the foregoing investigative findings and reasons, the Board finds that the public health, safety or welfare imperatively requires emergency action in this case pursuant to Md. Code Ann., State Govt. § 10-226(c)(2) (2021 Repl. Vol.).

ORDER

It is hereby:

ORDERED that pursuant to the authority vested in the Board of Nursing by Maryland Code Ann., State Govt. § 10-226(c)(2) (2021 Repl. Vol.) the certificate of **JANA SHAMBAUGH** to practice as a certified nursing assistant in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED that there will be a Show Cause Hearing on **Wednesday, August 24, 2022, at 1:00 p.m.** before the Board at the Maryland Board of Nursing offices, 4140 Patterson Avenue, Baltimore, Maryland 21215: and be it further

ORDERED that if, the suspension of the Respondent's certificate is continued following a Show Cause Hearing, the Respondent has the right to a full evidentiary hearing before the Board and a hearing will be scheduled before the Board if the Respondent submits a written request for an evidentiary hearing to the Board **no later than thirty (30) days from the date of the Board's written decision issued after the Show Cause Hearing**; and be it further

ORDERED that if the Respondent does not submit a timely written request to the Board for an evidentiary hearing within 30 days from the date of the Board's written decision issued after the Show Cause Hearing, the Respondent shall have waived all rights now and in the future to any

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hearing on the merits of the summary suspension of the Respondent's certificate and the factual allegations contained in this Order for Summary Suspension; and it is further

ORDERED that this Order for Summary Suspension shall remain in effect and the summary suspension of the Respondent's certificate shall continue until further Order of the Board; and it is further

ORDERED that this, "Order for Summary Suspension of Certified Nursing Assistant Certificate" is a **PUBLIC RECORD** pursuant to Md. Code Ann., General Provisions § 4-101 *et seq.* & § 4-333 (2019).

April 7, 2022
Date

Karen E.B. Evans, MSN, RN-BC
The Executive Director's Signature
Appears on the Original Document

Maryland Board of Nursing