

<p>IN THE MATTER OF</p> <p>DANA STILES SUTTON</p> <p>Applicant</p>	<p>*</p> <p>*</p> <p>*</p> <p>*</p>	<p>BEFORE THE</p> <p>MARYLAND STATE</p> <p>BOARD OF PHYSICIANS</p> <p>Case Number: 2017-0223A</p>
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FINAL ORDER

Based upon information received by the Maryland State Board of Physicians (the "Board"), the Board issued to **DANA STILES SUTTON (the "Applicant")** a Notice of Intent to Deny Application for Initial Licensure (the "Notice") pursuant to the Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Act (the "Act"), Md. Code Ann., Health Occ. II ("H.O.") §§ 14-5B-01 *et seq.* (2014 Repl. Vol. and 2015 Supp.).

The Board bases its denial on the following:

H.O. § 14-5B-09. Qualification for license.

(b) *Requirements.* – Except as provided in subsection (c) of this section, the applicant shall:

- (1) Be of good moral character[.]

H.O. § 14-5B-14. Denial of license.

(a) *In general.* – Subject to the hearing provisions of § 14-405 of this title, the Board, on the affirmative vote of a majority of the quorum of the Board may deny a license to any applicant, or a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensed individual, or for another;

- (3) Is guilty of unprofessional or immoral conduct in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance;
- (8) Provides professional services while:
 - (ii) Using any narcotic or controlled dangerous substance as defined in 5-101 of the Criminal Law Article or any other drug that is in excess of therapeutic amounts or without valid medical indication.
- (10) Willfully makes or files a false report or record in the practice of radiation therapy, radiography, nuclear medicine, or radiology assistance[.]

On November 16, 2016, the Board's Notice of Intent to Deny Application for Initial Licensure was issued. The Board notified the Applicant in that the Notice that this Final Order would be executed thirty (30) days from the issuance of the Notice unless the Applicant requested a hearing. The Applicant's written hearing request was due on December 16, 2016. The Board did not receive a written request for a hearing on or before that date.

FINDINGS OF FACT

The Board makes the following findings of fact:

1. On or about June 29, 2016, the Board received the Applicant's Application for Initial Licensure as a radiographer (the "application").
2. At all times relevant, the Applicant worked as a cardiovascular specialist¹ at Facility A in Raleigh, North Carolina.²
3. On the application, the Applicant answered "yes" to question 15d:

Has your employment by any health care employer been affected by disciplinary actions including probation, suspension, loss of privileges, transfer to other duties or termination of employment or contract? (ex:

¹ This position is unlicensed in the State of North Carolina.

² In order to maintain confidentiality, names will not be used in this Order.

provide name of institution, correspondence received or sent, related documents.)

4. The Applicant also answered "no" to question 15g:

Do you currently have a physical or mental condition which may affect your ability to practice your profession?

5. Under question 15d, the Applicant wrote "No correspondence - phone only [Facility A]."

6. With her application, the Applicant submitted a written explanation for her affirmative answer to question 15d. The Applicant stated that her employment at [Facility A] "was terminated due to a discrepancy in documentation of narcotics. This resulted in me being subject to a urinalysis. The quick test was negative however, the GMS showed positive for [controlled dangerous substance ("CDS")]. I had taken this medication at home for pain. It was prescribed to my husband."

7. The Applicant denied diverting medication from Facility A and denied caring for patients while under the influence of medication.

8. The Applicant further stated that the documentation discrepancy was "either a documentation error or an error in interpreting the documentation."

9. In response to requests from a member of the Board's staff, in an email dated August 5, 2016, the Applicant provided additional information regarding her termination from Facility A. The Applicant stated that she did not have any documentation regarding her termination. The Applicant reiterated that the CDS for which she tested positive was prescribed to her husband and that she had not diverted any medication from Facility A.

10. In a subsequent email dated August 10, 2016, the Applicant again provided additional information regarding her termination. The Applicant stated that on her last

day of employment at Facility A (April 28, 2016), she left early because she wasn't feeling well. When the Applicant returned to work after a long weekend off, the Applicant learned that a co-worker expressed concern about the Applicant's well-being and that Facility A discovered a documentation discrepancy involving the Applicant. According to the Applicant, she "was questioned, given a urinalysis and sent home."

11. In furtherance of the Board's investigation, a member of the Board's staff obtained documentation from Facility A regarding the Applicant's termination.³

12. According to documentation provided by Facility A, staff members reported that the Applicant displayed abnormal behavior on April 28, 2016. Staff members also verbalized concern for patient safety due to the Applicant's abnormal behavior.

13. The staff members reported that the Applicant had difficulty with simple tasks during a procedure; was noticeably agitated; was observed dozing while standing up in the monitor area; was observed staring at a wall in the procedure room; was observed walking around the procedure room randomly doing things unrelated to the patient or room turnover; was observed repeatedly raising and lowering the patient's bed rail; and was observed seeming itchy and randomly scratching herself.

14. As a result of staff reports, Facility A reviewed the Applicant's Pyxis activity for April 28, 2016 and determined that two CDS were unaccounted for on that date.

15. Facility A conducted a more thorough review of the Applicant's Pyxis activity which revealed additional discrepancies involving CDS.

16. On May 4, 2016, the Applicant submitted to a fit-for-duty drug screen and Facility A suspended the Applicant pending the results. On May 13, 2016, the final results

³ The Applicant provided a signed release form to permit the Board to obtain additional documents from Facility A regarding her termination.

confirmed that the Applicant tested positive for CDS for which she did not have a prescription.

17. Facility A terminated the Applicant effective May 18, 2016.

18. In or about September 2016, the Applicant submitted a letter, dated June 30, 2016, from a psychiatrist ("Physician A"), who stated that the Applicant has been under his care since May 2011 for opioid dependence and another psychological condition. Physician A referenced a "recent relapse" and stated that the Applicant is "currently receiving more intensive treatment as a result" of her relapse.

CONCLUSIONS OF LAW

The Board issues its denial of the Applicant's Application based on the foregoing Findings of Fact. The Board concludes as a matter of law that the Applicant has violated H.O. §§ 14-5B-14(a)(1), (3), (8)(ii), and (10) and has failed to demonstrate good moral character as required by H.O. § 14-5B-09(b)(1).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, by an affirmative vote of the majority of the quorum of the Board considering the case hereby:

ORDERED that the Applicant's Application for Initial License be and hereby is **DENIED**; and be it further

ORDERED that this is a Final Order of the Board, and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann. General Provisions §§ 4-101 *et seq.*

01/26/2017
Date


Christine A. Farrelly
Executive Director

NOTICE OF RIGHT OF APPEAL

Pursuant to Md. State Gov't. Code Ann. § 10-222, the Applicant has the right to take a direct judicial appeal. Any appeal shall be made as provided for judicial review of a final decision pursuant to § 10-222 of the State Government Article and Title 7, Chapter 200 of the Maryland Rules.