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BEFORE THE WEST VIRGINIA MEDICAL IMAGING AND RADIATION
THERAPY TECHNOLOGY BOARD OF EXAMINERS

WEST VIRGINIA MEDICAL IMAGING & RADIATION
THERAPY TECHNOLOGY BOARD OF EXAMINERS,

Complainant,

v.

Complaint No. 02-FY 2011

CHASTITY A. RUBIN ,
License No. WV 5904

Respondent.

FINAL ADMINISTRATIVE ORDER

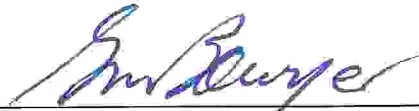
Upon review of the record in the above-styled matter, the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (hereinafter "Board") hereby **ADOPTS**, in its entirety, the Hearing Examiner's Recommended Decision, dated February 14, 2012, which is attached hereto and incorporated by reference herein. Based on the Hearing Examiner's Findings of Fact and Conclusions of Law, the Board hereby **ORDERS** as follows:

1. That the Respondent's license is **REVOKED**;
2. That the Respondent pay to the Board its administrative costs and legal fees associated with this proceeding within thirty (30) days of the entry date of this ORDER, which total \$ 2,750.00; and

3. That, in addition to all other requirements as prescribed by law, the Respondent shall not be eligible to make application for licensure with this Board until the above costs are paid and full.

ENTERED this 26 day of March, 2012.

WEST VIRGINIA MEDICAL IMAGING AND
RADIATION THERAPY TECHNOLOGY BOARD
OF EXAMINERS



GRADY M. BOWYER
EXECUTIVE DIRECTOR

RECEIVED

2/16/12

WV MI & RTT BOARD

**JACK C. McCLUNG
ATTORNEY AT LAW
2211 WASHINGTON STREET EAST
CHARLESTON, WEST VIRGINIA 25311**

PHONE (304) 346-0591

February 14, 2011

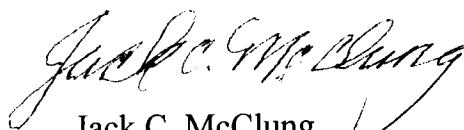
Grady M. Bowyer, R.T.
Executive Director
West Virginia Medical Imaging & Radiation
Therapy Technology Board of Examiners
P. O. Box 638
Cool Ridge, West Virginia 25825

Re: West Virginia Medical Imaging & Radiation
Therapy Technology Board of Examiners v.
Chastity A. Rubin

Dear Mr. Bowyer:

Please find enclosed my Recommended Decision in the above matter along with my invoice pertaining to the same.

Very truly yours,



Jack C. McClung
Hearing Examiner

Enclosure

**BEFORE THE WEST VIRGINIA MEDICAL IMAGING AND RADIATION
THERAPY TECHNOLOGY BOARD OF EXAMINERS**

**WEST VIRGINIA MEDICAL IMAGING AND
RADIATION THERAPY TECHNOLOGY
BOARD OF EXAMINERS,**

Complainant,

v.

Complaint No. 02-FY-2011

CHASTITY A. RUBIN,

Respondent.

HEARING EXAMINER'S RECOMMENDED DECISION

This matter came on for hearing before the undersigned on December 6, 2011, pursuant to Notice of Hearing and Statement of Charges dated September 16, 2011. The West Virginia Medical Imaging and Technology Board of Examiners (hereinafter Board) appeared by Katherine Campbell, Assistant Attorney General, and Grady M Bowyer, Executive Director of the Board. There was no appearance by the Respondent either in person or by representative. The Board called as witnesses Grady Bowyer and April Bostic.

All witnesses were sworn, documents were received into evidence, and the hearing was recorded electronically.

After a review of the record and exhibits admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the undersigned Hearing Examiner makes the following Findings of Fact and

Conclusions of Law. To the extent that these findings and conclusions are generally consistent with any proposed findings of fact and conclusions of law submitted by the parties, the same are adopted by the Hearing Officer. Conversely, to the extent that the same are inconsistent with these findings and conclusions, they are rejected. To the extent that the testimony of any witness is not in accordance with these Findings and Conclusions, such testimony is not credited. Any proposed Finding of Fact, Conclusion of Law, or Argument proposed and submitted by a party but omitted herein is deemed irrelevant or unnecessary to the determination of the material issues in this matter.

FINDINGS OF FACT

1. The Board is a state administrative agency charged with the responsibility of administering and enforcing state laws and regulations pertaining to the practice of medical imaging or radiation therapy technology in the State of West Virginia. *See* W. Va. Code § 30-23-1 *et seq.*

2. As part of the Board's mandate to enforce these laws and regulations, the Board has the authority to investigate any alleged violation of the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners Act and its accompanying rules. *See* W. Va. Code § 30-23-1 *et seq.* and W. Va. Code R. § 18-1-1 *et seq.*

3. Grady M. Bowyer (Bowyer), Executive Director of the Board, testified on behalf of the Board.

4. Chastity A. Rubin is a licensee of the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners and is subject to the license requirements of said Board. *See* December 6, 2011, Record at 7 (hereinafter "12/6/11 R. at ____.)

5. Respondent, Chastity A. Rubin, at all relevant times was employed by CAMC Teays Valley Hospital as a Nuclear Technologist. *See* 12/6/11 R. at 25.

6. The Board received a complaint from April D. Amburgey Bostic, Medical Imaging Manager, for CAMC Teays Valley Hospital on February 16, 2011. The complaint stated that the Respondent had been discharged from her position with CAMC Teays Valley Hospital for gross misconduct due to the theft of a patient's prescription drugs. *See* 12/6/11 R. at 7-8 and Exhibit 1.

7. The Board then sent the Respondent a copy of the Complaint for a response via certified letter dated February 16, 2011. No response was ever received from the Respondent regarding this Complaint; however, the Respondent did sign for the letter on February 17, 2011. *See* 12/6/11 R. at 9-11 and Exhibit 2.

8. Moreover, the Board issued a Subpoena Duces Tecum to CAMC Teays Valley Hospital on March 10, 2011, for all documents related to the investigation and termination of the Respondent. *See* 12/6/11 R at 12 and Exhibit 3.

9. The Board, at its June 23, 2011, Board meeting, after an investigation and recommendation of the Complaint Committee, voted to find probable cause and to offer the Respondent a Consent Agreement to resolve the issue at hand; however, no response was

received from the Respondent in two separate mailings of this offer of a Consent Agreement. *See* 12/6/11 R. at 13-15 and Exhibit 4.

10. The Board on September 16, 2011, issued a Statement of Charges and Notice of Hearing to the Respondent which was sent to the same address as used in the earlier mailings by the Board. *See* 12/6/11 R. at 16-20 and Exhibit 5-8.

11. Bowyer testified that it is the licensee's responsibility to maintain a current address with the Board at all times. *See* 12/6/11 R. at 10.

12. April D. Amburgey Bostic (Bostic), Medical Imaging Manager, for CAMC Teays Valley Hospital, testified on behalf of the Board.

13. Bostic testified that on Friday, February 11, 2011, she received a patient complaint that after the completion of the nuclear medicine procedure, the patient's prescribed medication was missing. *See* 12/6/11 R. at 25-27.

14. Bostic and Security Guard Alan Comer (Comer) began an investigation to determine if the Respondent had taken the medication. Bostic testified that after she interviewed the patient, she called in the Respondent to speak with her regarding these allegations.

15. Bostic testified that the Respondent denied taking the medication; however, Bostic requested that the Respondent, in the presence of Comer, empty the contents of her purse. Respondent replied that her purse was in her vehicle; however, upon opening a drawer in the examination room the Respondent's purse was discovered. *See* 12/6/11 R. at 32-33.

16. Comer emptied the contents without finding the missing medication; however, Bostic testified that she observed a pill bottle top sticking out of the Respondent's scrubs. The pill bottle was the missing medication which had been located in Respondent's right front scrub pocket. Respondent was immediately suspended without pay and escorted from the premises. *See* 12/6/11 R. at 34-35.

17. Bostic confirmed that six pills were missing as identified by the patient. Later Respondent was notified on Monday, February 14, 2011, of her termination from employment with CAMC - Teays Valley Hospital for gross misconduct--theft of prescription drugs. *See* 12/6/11 R. at 36.

CONCLUSIONS OF LAW

1. The Board is a regulatory board created for the purpose of regulating the practice of medical imaging or radiation therapy technology in the state of West Virginia. See W. Va. Code § 30-23-1 *et seq.*

2. In order to carry out its regulatory duties, the Board is empowered to suspend, revoke or otherwise discipline an individual's license. W. Va. Code § 30-23-24.

3. Licensee is required to notify the Board of any address or name changes, and must maintain a current address with the Board. *See* W. Va. Code R. § 18-4-5.12.

4. The facts as listed above prove the Respondent's actions as shown demonstrate a clear violation of W. Va. Code §§ 30-23-24(a)(5) and (a)(8) and W. Va. Code R. § 18-5.1.5(c).

5. Moreover, Respondent's conduct violate the laws as they pertain to the Medical Imaging and Radiation Therapy Technology Board and renders her license subject to disciplinary action by the Board.

RECOMMENDED ORDER

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, it is recommended that the Board take such disciplinary action against the license of Chastity A. Rubin as it deems appropriate.

ENTERED this 14th day of February, 2012.



JACK C. McCLUNG
HEARING EXAMINER