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MISSION STATEMENT

SPAN's mission is to be the resource for New York State nurses affected by substance use disorders, while fostering public safety through outreach and education.

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Statewide Peer
Assistance for Nurses



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*Choosing to be positive
and having a grateful
attitude is going to
determine how you're
going to live your life.*

~Joel Osteen

Information for and about nurses in recovery



"SPAN"ing New York State

PAP, OPD, OMIG, and OIG: How to Protect Your License

For any licensed professional, any complaint, criminal issue, or discipline may result in repercussions with other government agencies that can have severe consequences on your ability to practice. For a nurse dealing with substance-use disorder, it is essential to understand the ground upon which these government agencies may take action and how to defend and protect your license.

The basic statutory grounds for a charge of professional misconduct brought by the Office of Professional Discipline (OPD) are set forth in Education Law §6509 and Rule 29 of the Board of Regents. They include: "practicing the profession with gross incompetence, with gross negligence on a particular occasion or negligence or incompetence on more than one occasion, practicing the profession while the ability to practice is impaired by alcohol, drugs, physical disability, or mental disability, being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, and being convicted of committing an act constituting a crime" (New York State Education Law § 6509(2), (3), (4) and (5)).

The Professional Assistance Program (PAP) provides immunity from a charge of professional misconduct under only two sections of the law:

- Education Law § 6509(3): "Practicing while the ability to practice is impaired by alcohol, drugs, physical disability, or mental disability"
- § 6509 (4): "[B]eing habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects"

Other sections—most notably those involving gross negligence or negligence on more than one occasion and conviction of a crime—are not covered under PAP immunity. That means OPD can still charge a nurse who is enrolled and in compliance with the PAP with charges of professional misconduct under those grounds. The criminal conviction ground is the most common ground, but OPD has used other grounds in cases involving diversion even when a crime had not been charged. Even though the PAP does not provide absolute immunity from professional discipline, a nurse's participation in the PAP will be taken into account and looked upon favorably.

Whether for a criminal conviction or another ground, typical discipline for a first offense is often a stayed suspension, which is a suspension that is put on hold and will not result in an actual suspension



of one's license as long as the nurse complies with the terms of the order. OPD, however, will try to put an actual indefinite suspension into place if the nurse is still not determined to be fit for practice. That indefinite actual suspension and any actual suspension will likely result in actions by the NYS Office of Medicaid Inspector General (OMIG) and the US Office of the Inspector General of the Department of Health and Human Services (OIG). As such, it is very important to attempt to put off any discipline until there is a finding of fitness to practice.

OMIG will exclude anyone who has an actual suspension but can also exclude anyone who has been disciplined by OPD. There is a way to avoid this through a pre-consent determination request. OMIG can exclude anyone who was convicted of a crime relating to delivery of health care, and OMIG

must exclude anyone excluded by the federal government. OIG has the authority to exclude individuals and entities from federally funded health care programs for a variety of reasons, including a conviction for Medicare or Medicaid fraud.

An exclusion by OMIG or OIG has a devastating effect on a nurse. Those that are excluded can receive no payment from federal health care programs for any items or services they furnish, order, or prescribe. That essentially means they cannot be employed by any entity that participates in a government health care program, including hospitals, private practices, and nursing homes. Exclusions are not automatically removed, which is a common misconception. A nurse must affirmatively ask to be removed from the exclusion list and must be removed from the OIG before the OMIG will

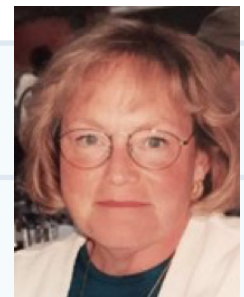
remove them from the state list. This takes time, often many months, during which obtaining employment would be very difficult.

In sum, a nurse facing complaints must be aware of all the various regulatory repercussions and should have legal guidance to protect his/her license.

Margaret Surozeka is counsel with Barclay Damon LLP, a leading law firm with nearly 300 attorneys operating from a strategic platform of offices in the Northeastern United States and Toronto. As a member of the firm's Health Care Controversies Practice Area, Maggie routinely represents health care professionals in disciplinary and regulatory actions before governmental agencies.

This article is not intended as legal advice. Legal advice is based on the specific facts of a client's situation and must be obtained by individual consultation with a lawyer.

IN MEMORIAM *Sheila Brady*



It is with great sadness that SPAN shares the news that Sheila Brady, retired SPAN Regional Coordinator, passed away on January 5, 2020 after a short illness. Sheila is survived by her children, Philip, Megan, Barbara, and Michael. She was the beloved grandmother to 11 cherished grandchildren. Sheila earned her RN from Holy Cross Nursing School in Notre Dame, Indiana, where she met her husband Phil. After marrying, they moved to the East Coast, where she worked in a number of hospitals until they finally relocated to Syracuse in 1977. There, she worked in the emergency and psychiatric departments at Crouse Hospital, served as the Resident Coordinator at Upstate Medical Center, as a staff nurse at Western Electric, and as the Director of Nursing at Tully Hill. During this time, she raised her four children, earned two master's degrees, and even had a stint as a pastry chef. She finished her career as a Regional Coordinator for the Statewide Peer Assistance for Nurses (SPAN) program. Friends and family admired her work ethic, her gentle but commanding presence, her creativity in baking and crafts, and her offbeat sense of humor. She especially enjoyed spending time with loved ones over the last 30 summers in Sackets Harbor, reading books while listening to the waves, and most recently, enjoying her little pink house on the shore of Lake Ontario. She is most beloved and will be deeply missed.

"Sheila was one of the pioneers of the SPAN program and made significant contributions as the program evolved. She was well known in the Central NY area where she was a Regional Coordinator for many years. Her participants loved her for consistently going the extra mile to advocate on their behalf."

~ Becky Eisenhut

"Sheila was the person that convinced me to facilitate SPAN groups in Utica and was my regional coordinator. She was a gentle soul and a great cook. Sheila would routinely have all of her facilitators come to her house for our meetings, and being the perfect hostess would prepare delicious meals for us. She was a great leader!"

~ Joyce Nebush

"We lost Sheila Brady too soon. She retired from SPAN only 5 years ago. Sheila had a calm, can-do approach. Whenever I was at a recovery conference or event, I always met people who knew Sheila. She made a difference in the lives of many and the good she did will live on." *~ Maureen Farrell*

From the Depths of Chaos...to Self-love

Webster's Dictionary defines chaos as a state of utter confusion and disorder. Three years ago it would have been difficult to find a word more fitting to describe my life. Connections to anything positive had been severed a long time ago and in this untethered state, I tore through my terrifying life. Years were spent without a clear sense of direction and I was constantly uncertain of my thoughts and emotions. Alone and ruled by impulse, I never knew what lie ahead each day, and my lifestyle was literally killing me. At that time, drugs and alcohol were both the cause and solution to this chaos.

When my managers pulled me into their office and confronted me about substance abuse, I had had enough. For the first time, I opened up about it and the sense of despair that I had been living in. Dozens of questions swirled in my mind but one, in particular, was the locus of my attention. Why? Not why me or why did I get caught. But why was I willing to risk my career and even my life for something that was so obviously making me miserable. The quest to find an answer began that day.

I view addiction as a symptom of deeper psychological hardships. Exposing my internal wounds in treatment, AA, SPAN, and Refuge Recovery, and by connecting with those who suffer as I did, I was able to begin the difficult work of healing. Over time, I realized that I harbored terrible thoughts about myself; that I never felt that I was enough, that I deemed myself a failure, and that I had been basing my happiness on the approval and expectations of others.

Without self-love it's easy and practical to destroy yourself. It almost feels necessary. In order to survive, I knew I needed to change nearly every facet of my life. I've told everyone my story; my friends, family, co-workers, strangers, and even

first dates. It was intimidating to tell but 100% of the time I was met with compassion and concern. By experiencing the acceptance and lack of judgment from so many, I have been able to treat myself in the same way. Negative people are now a liability, and cutting ties with some that I have known for decades was necessary. My mind and body are precious to me, so I decided to treat them as such. Daily exercise, a healthy diet, and ample sleep are now foundations of my well-being.

Renowned Vipassana Meditation teacher, Joseph Goldstein once said, "If you want to understand your mind, sit down and observe it." This simple instruction has altered my life in ways that I did not believe possible. A daily meditation practice, weekly meditation meetings at Refuge Recovery, and work with a psychotherapist have provided insight into the depths of my mind. Now when I have an upsetting thought I can see it for what it is. A thought. It is not a commandment that must be obeyed, run from, or medicated. It will pass as all thoughts do. If it is negative, I question its validity. Often times it isn't even true.

What I am attempting to convey is that my life today is vastly different from what it used to be. I understand that every time I used drugs and alcohol there was a price to pay. Every instance was corrosive to my integrity and spirit, and it only exacerbated my sense of isolation. Thankfully, I have reestablished connections with my loved ones and created new bonds with people who truly care about me.

But perhaps most importantly I have reconnected with myself. I treat myself as someone I love. Socrates claimed that the greatest goal of one's life is to "know thyself." As I sit here today I can honestly say I know why.

~ a grateful SPAN participant

New Online Group

SPAN is piloting an online group for the participants who are unable to attend in person. The group meets on Wednesday evenings from 6:00pm to 7:30pm and is facilitated by Deborah Koivula. The group is hosted via the Zoom platform. Interested nurses can discuss the group criteria with their Regional Coordinator.

Online Group Expectations

Just like in-person meetings, the online meeting has a set of expectations and parameters to help all members get the most out of our peer support process. In addition to the SPAN group rules, please remember the following when attending group on line:

- Confidentiality of group members is of utmost importance. Information shared in group is to remain with group members only. Please do not utilize usernames that display your last name.
- Group participation although mobile, is a private activity. Please make provisions for children and or other adults to not be within viewing or listening distance of group conversation.
- Video etiquette is important for an effective group experience. Although we have the ability to use our mobile devices for participation, please be mindful that heavy movement of the camera, walking and moving while on screen or fidgeting is distracting to other participants. Please use your technology responsibly and effectively.
- Please consider placing your camera at an angle that allows a forward view of your face - not the side or looking up from the ground. Eye contact through video is an important means of demonstrating engagement with your peers.
- Eating during group is discouraged.
- Smoking is not allowed during group.
- Group starts and ends at designated time.
- If you are unable to attend group, please contact facilitator to inform them as soon as possible. **Please note that attendance is a commitment. Two unexcused absences will result in removal from the online group process.**





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Sandra Hair
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Thank you to our SPAN Facilitators

Thank you to all of our
volunteer SPAN group
facilitators. We couldn't run
the groups without you!
There are three facilitators
who will celebrate milestone
anniversaries in 2020:

Carol Brown
(5 years on 4/5/2015)
Adirondack Region

Kenneth Burwell
(5 years on 4/20/2015)
Adirondack Region

Jennifer Aromanda
(10 years on 7/13/2010)
Metropolitan Region

SPAN Support Groups

Adirondack: Canton, Oneonta,
Plattsburgh, Utica

Central: Binghamton, Elmira,
Syracuse (2)

Eastern: Albany, Guilderland,
Highland, Middletown, Saratoga
Springs

Metropolitan: Manhattan,
Westchester, Queens, Brooklyn

Southeastern: Bohemia,
Farmingdale, Massapequa,
Selden, Staten Island, Syosset

Western: Rochester, Olean,
West Seneca, Buffalo

For more information, please
contact your regional coordinator
or the SPAN HELPLine at 1-800-
45-SPAN-1 or 1-800-457-7261.