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By MB
Virginia Board of Nursing



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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 18, 2017

Lynwood Russelle Whyte, L.P.N.
255 Meadow Garden Lane
Martinsville, VA 24112

DUPLICATE COPY
VIA FIRST CLASS MAIL

DATE 12/18/17

RE: License Number: 0002-084300
Case Number: 184448

Dear Mr. Whyte:

Pursuant to Virginia Code § 54.1-2409, you are hereby given notice that your license to practice practical nursing in the Commonwealth of Virginia has been mandatorily suspended by the enclosed Order entered December 15, 2017. You are hereby advised that you may not practice practical nursing or hold yourself out as a licensed practical 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 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, Deputy Director
Administrative Proceedings Division

cc: Jay Douglas, M.S.M., R.N., C.S.A.C., F.R.E., Executive Director, Virginia Board of Nursing
Enclosures

BEFORE THE VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS

IN RE: LYNWOOD RUSSELLE WHYTE, L.P.N.
License Number: 0002-084300
Case Number: 184448

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 North Dakota Board of Nursing suspended the privilege of Lynwood Russelle Whyte, L.P.N., to practice practical nursing in the State of North Dakota. A certified copy of the 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 Lynwood Russelle Whyte, L.P.N., to practice practical nursing in the Commonwealth of Virginia is hereby SUSPENDED.

Upon entry of this Order, the license of Lynwood Russelle Whyte, L.P.N., will be recorded as suspended and no longer current and valid. Should Mr. Whyte 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. Whyte's multistate licensure privilege, if any, to practice practical 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:

12/15/87

CERTIFICATION OF DUPLICATE RECORDS

I, David E. Brown, D.C., Director of the Department of Health Professions, hereby certify that the attached Notice of Suspension entered November 29, 2017, regarding Lynwood Russelle Whyte, L.P.N., is a true copy of the records received from the North Dakota Board of Nursing.



David E. Brown, D.C.

12/15/17

Date



BEFORE THE BOARD OF NURSING OF THE STATE OF NORTH DAKOTA

STATE OF NORTH DAKOTA and)
the BOARD OF NURSING OF THE)
STATE OF NORTH DAKOTA,)
Plaintiff,)
vs.)
Lynwood Whyte, LPN,)
Respondent.)

NOTICE OF SUSPENSION

DOB:

TO: Lynwood Whyte

YOU WILL PLEASE TAKE NOTICE that the North Dakota Board of Nursing, hereinafter referred to as the "Board," by and through its Executive Director, at your request and pursuant to the Board's Order approved September 28, 2017 and signed October 2, 2017 ("Order"), has SUSPENDED your privilege to practice nursing in North Dakota on the following grounds:

WHEREAS, the Board is duly authorized by law to regulate the profession of nursing pursuant to Chapter 43-12.1 of the North Dakota Century Code, and related statutes, rules, policies and procedures; and

WHEREAS, Lynwood Whyte, hereinafter referred to as the "Respondent," is a Licensed Practical Nurse possessing a privilege to practice as a Licensed Practical Nurse in North Dakota pursuant to his Licensed Practical Nurse license in Virginia (License #PN0002084300), the profession and practice of which is governed by the Board; and

WHEREAS, Respondent's privilege to practice as a Licensed Practical Nurse was encumbered by the Order; and

WHEREAS, paragraph 8(A)(2) of the Order provides that Respondent, during the period of his encumbrance, shall pay an encumbrance monitoring fee of Thirty Dollars (\$30) per month; however, Respondent has informed Board staff that he is currently not working as a nurse in North Dakota and does not plan to do so in the near future, and that he does not intend to comply with that paragraph while he is not working in North Dakota; and

WHEREAS, paragraph 8(A)(6) of the Order provides that Respondent shall provide to his current employer of nursing practice a copy of the Order within ten (10) days of his receipt of the Board's Order; however, Respondent has informed Board staff that he is currently not working as a nurse in North Dakota and does not plan to do so in the near future, and that he does not intend to comply with that paragraph while he is not working in North Dakota; and

WHEREAS, paragraph 8(A)(8) of the Order provides that Respondent, during the period of his encumbrance, shall submit or cause to be submitted to the Board an Employer Disclosure Form (SFN52430) from his nursing employers; however, Respondent has informed Board staff that he is currently not working as a nurse in North Dakota and does not plan to do so in the near

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By Melissa Hanson
North Dakota Board of Nursing

future, and that he does not intend to comply with that paragraph while he is not working in North Dakota; and

WHEREAS, paragraph 8(A)(9) of the Order provides that Respondent, during the period of his encumbrance, will submit to the Board a Written Plan of Supervision/Monitoring Form (SFN52435) approved and signed by Respondent's employer; however, Respondent has informed Board staff that he is currently not working as a nurse in North Dakota and does not plan to do so in the near future, and that he does not intend to comply with that paragraph while he is not working in North Dakota; and

WHEREAS, paragraph 8(A)(16) of the Order provides that Respondent, during the period of his encumbrance, shall submit or cause to be submitted to the Board a written quarterly Employer Work Performance Evaluation (SFN52431) from his supervisor when employed in nursing practice; however, Respondent has informed Board staff that he is currently not working as a nurse in North Dakota and does not plan to do so in the near future, and that he does not intend to comply with that paragraph while he is not working in North Dakota; and

WHEREAS, paragraph 8(A)(18) of the Order provides that Respondent, during the period of his encumbrance, shall submit to the Board a monthly Self-Assessment Report (SFN52432); however, Respondent has informed Board staff that he is currently not working as a nurse in North Dakota and does not plan to do so in the near future, and that he does not intend to comply with that paragraph while he is not working in North Dakota; and

WHEREAS, paragraph G of the Order provides that the encumbrance may be revoked by the Board and Respondent's privilege to practice nursing may be automatically suspended for a period of one (1) year without further notice or opportunity for hearing if Respondent violates (i) the Nurse Practices Act as set out in N.D.C.C., Chapter 43-12.1, (ii) the Order, (iii) any other professional nursing laws, rules, regulations, policies or procedures, or (iv) the policies or procedures of any health care institution for whom Respondent may be employed; and

WHEREAS, since Respondent has informed the Board of his intention to not comply with the terms of the Order, the Board, by and through its Executive Director, and at the request of Respondent, is willing to indefinitely suspend Respondent's privilege to practice nursing in North Dakota until such time as he plans to practice nursing in North Dakota, rather than for the one (1) year period set forth in the Order.

NOW, THEREFORE, the Board orders as follows:

1. Respondent's privilege to practice as a Licensed Practical Nurse in North Dakota is hereby **SUSPENDED**, as of the date of this Notice, until such time as Respondent applies for reinstatement of his privilege and it is reinstated by the Board.
2. Respondent shall not work in any nursing role in North Dakota, including that of a nurse aide, nurse assistant or medication assistant/aide to whom nursing interventions may be delegated, and Respondent shall not practice nursing in North Dakota under the privilege of any multistate license during the period of his privilege suspension.
3. All provisions and conditions of this Notice shall carry over to any license or privilege to practice nursing in North Dakota that Respondent may receive, including pursuant to any multi-state nursing licensure compact with the Board.

4. The suspension imposed by this Notice and the other matters contained in this Notice will be reported to health care agencies in North Dakota and to the boards of nursing of other states via the Nursys Data Bank of the National Council of State Boards of Nursing, as required by N.D.C.C. § 43-12.1-13, and to data banks as required by federal law, including the National Practitioners Data Bank.
5. If Respondent shall seek reinstatement of his privilege, Respondent shall submit a written request and application for reinstatement to the Board. If required by the Board, Respondent shall personally appear before the Board. Respondent maintains the burden to prove to the satisfaction of the Board that he can safely practice nursing pursuant to the terms and conditions of the Order. The Board may order the reinstatement of his privilege to probationary status, subject to the same terms and conditions as set forth in the Order, or may order other terms and conditions as may be deemed appropriate by the Board at that time.
6. Upon seeking reinstatement of his privilege, Respondent shall inform the Board if he has been arrested, charged, convicted or plead guilty to any criminal charges during the period of his privilege suspension, and shall submit to the Board along with his application for reinstatement a copy of the criminal judgment, plea agreement, probation agreement, and any other applicable order or agreement related to the criminal charges.
7. Upon seeking reinstatement of his privilege, Respondent shall inform the Board if he has been investigated by or received discipline from a board of nursing in another jurisdiction, or if he has a license or privilege to practice nursing or to practice in another health care occupation or profession denied, revoked, suspended or otherwise sanctioned during the period of his privilege suspension, and shall submit to the Board along with his application for reinstatement a copy of the applicable order or agreement related to the investigation or discipline.
8. If requested by the Board, Respondent must submit to a criminal history record check ("CHRC") in order to seek reinstatement of his privilege, and as otherwise required by law or the rules promulgated by the Board. For reinstatement purposes, the CHRC may be conducted no sooner than sixty (60) days prior to the Board's review of his application. The CHRC results must be received in the Board's office a minimum of thirty (30) days prior to Respondent's request for reinstatement being presented to the Board.

Dated this 29th day of November, 2017.

NORTH DAKOTA BOARD OF NURSING

By: 
Dr. Stacey Pfenning, APRN, FNP
Executive Director

Approved as to form:



Brian L. Bergeson
Special Assistant Attorney General
ID #05780
919 South 7th Street, Suite 504,
Bismarck, ND 58504
Phone: (701) 328-9783
Fax: (701) 328-9785
ATTORNEY FOR NORTH DAKOTA
BOARD OF NURSING

BEFORE THE BOARD OF NURSING OF THE STATE OF NORTH DAKOTA

STATE OF NORTH DAKOTA and
the BOARD OF NURSING OF THE
STATE OF NORTH DAKOTA,

Plaintiff,

vs.

Lynwood Whyte, LPN,

Respondent.

AFFIDAVIT OF MAILING

DOB:

STATE OF NORTH DAKOTA)

COUNTY OF BURLEIGH)

Sally Bohmbach

) ss.

Sally Bohmbach, being first duly sworn deposes and says: Affiant is a citizen of the United States, of legal age, and not a party nor interested in the above-entitled matter.

That upon the 29th day of November, 2017, this affiant served upon the person hereinafter named a true and correct copy of the following documents: **Notice of Suspension** and this **Affidavit of Mailing**, by depositing the same in the United States mail at Bismarck, North Dakota, securely enclosed in a sealed envelope, with postage duly prepaid, mailed certified, return receipt requested, and addressed to the following party:

Lynwood Whyte

PO Box 3250

Martinsville, VA 24115

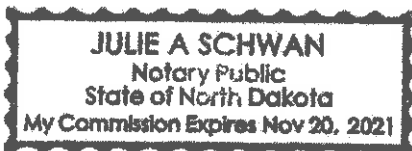
Certificate # 7015-1660 0000 5359 8572

That to the best of affiant's knowledge, information and belief, such address as given above was the actual post office address of the party intended to be so served.

Dated this 29th day of November, 2017.

Sally Bohmbach

Subscribed, acknowledged and sworn to before me this 29th day of November, 2017.



Julie A. Schwan
Notary Public