

Certified True Copy

By Jay Douglas
Virginia Board of Nursing



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COMMONWEALTH of VIRGINIA VA BD OF NURSING

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

November 15, 2017

Melanie Dee VanDyke, R.N.
P.O. Box 211
Rosedale, VA 24280

DUPLICATE COPY
VIA FIRST CLASS MAIL

DATE 11/15/17

RE: License Number: 0001-225681
Case Number: 182606

Dear Ms. VanDyke:

Pursuant to Virginia Code § 54.1-2409, you are hereby given notice that your license to practice professional nursing in the Commonwealth of Virginia has been mandatorily suspended by the enclosed Order entered November 15, 2017. You are hereby advised that you may not practice professional nursing or hold yourself out as a licensed professional 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: MELANIE DEE VANDYKE, R.N.
License Number: 0001-225681
Case Number: 182606

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 Tennessee Board of Nursing revoked the multistate licensure privilege of Melanie Dee VanDyke, R.N., to practice professional nursing in the State of Tennessee. A certified copy of the Final Order of the Tennessee Board of Nursing 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 Melanie Dee VanDyke, R.N., to practice professional nursing in the Commonwealth of Virginia is hereby SUSPENDED.

Upon entry of this Order, the license of Melanie Dee VanDyke, R.N., will be recorded as suspended and no longer current and valid. Should Ms. VanDyke seek reinstatement of her license pursuant to Virginia Code § 54.1-2409, she 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 Ms. VanDyke's multistate licensure privilege, if any, to practice professional 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:

11/15/17

CERTIFICATION OF DUPLICATE RECORDS

I, David E. Brown, D.C., Director of the Department of Health Professions, hereby certify that the attached Final Order entered August 24, 2017, regarding Melanie Dee VanDyke, R.N., is a true copy of the records received from the Tennessee Board of Nursing.



David E. Brown, D.C.

11/15/17

Date

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ENFORCEMENT



CERTIFICATION

October 20, 2017

I, Dorsey Luther, Disciplinary Coordinator, do hereby certify that the attached Final Order entered August 24, 2017, for Melanie Van Dyke, R.N.—Virginia, license number 1225681, is a true and correct copy of the disciplinary order on file in this Office.


Dorsey Luther, Disciplinary Coordinator
Board of Nursing
Tennessee Department of Health
Investigations Division



BEFORE THE TENNESSEE BOARD OF NURSING

In the Matter of:

MELANIE VAN DYKE

Virginia R.N. License No. 1225681

Respondent

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Docket No. 17.19-144908A

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SECRETARY OF STATE

FINAL ORDER

This matter came to be heard before the Tennessee Board of Nursing (Board) on the 23rd day of August, 2017, pursuant to a Notice of Hearing and Charges and Memorandum for Assessment of Civil Penalties filed against the Respondent. Presiding at the hearing was the Honorable Michael Begley, Administrative Law Judge, assigned by the Secretary of State. The State was represented by R. Todd Pinckley, Assistant General Counsel. The Respondent, MELANIE VAN DYKE, was not present and not represented by counsel. Counsel for the State made a motion pursuant to Tennessee Code Annotated Section (TFENN. CODE ANN. §) 4-5-309 to find the Respondent in default. In support of its motion, the State introduced evidence of multiple attempts at contacting the Respondent at her Address of Record. Additionally, the State also testified regarding multiple attempts to contact Respondent at by her telephone number of record and a previously used email address. Having considered the evidence in this matter, the Administrative Law Judge advised the Board that service on the Respondent was legally sufficient. By majority vote, the Board GRANTED the State's motion to find the Respondent in DEFAULT and to conduct the proceeding without the participation of the Respondent. After consideration of the Notice of Hearing and Charges, testimony of witnesses, argument of counsel, and the record as a whole, the Board finds as follows:

FINDINGS OF FACT

1. Respondent has been at all times pertinent hereto licensed by the Virginia Board of Nursing as a registered nurse in the State of Virginia, having been granted license number 1225681 on July 7, 2010, which has an expiration date of October 31, 2018. Respondent's registered nurse license is active and bears a multistate privilege to practice nursing in states which have entered into the Interstate Nurse Licensure Compact.
2. At all times pertinent hereto, Respondent was working as a registered nurse at Holston Valley Medical Center (HVMC) in Kingsport, Tennessee, on the multistate privilege afforded to Respondent by her Virginia nursing license
3. While employed at HVMC, Respondent diverted narcotics.
4. While employed at HVMC, Respondent made multiple false entries in patient charts and medication administration records regarding the administration of controlled substances.
5. Respondent consumed controlled substances that were not prescribed to her.

CONCLUSIONS OF LAW

The Board, having jurisdiction over this matter, finds the facts in this Order sufficient to establish Respondent violated the following provisions of TENN. CODE ANN. § 63-7-101, *et seq.*:

6. Respondent's acts and conduct enumerated in paragraphs one (1) through five (5) constitute violations of TENN. CODE ANN. § 63-7-115(a)(1):
 - (F) Is guilty of unprofessional conduct.
7. Respondent's acts and conduct enumerated in paragraphs three (3) constitute violations of TENN. COMP. R. & REGS. 1000-01-.13(1):

- (e) Unauthorized use or removal of narcotics, drugs, supplies, or equipment from any health care facility, school, institution or other work place location;
8. Respondent's acts and conduct enumerated in paragraphs four (4) constitute violations of TENN. COMP. R. & REGS. 1000-01-.13(1):

- (d) Making false or materially incorrect, inconsistent or unintelligible entries in any patient records or in the records of any health care facility, school, institution or other work place location pertaining to the obtaining, possessing or administration of any controlled substance as defined in the Federal Controlled Substances Act;
9. The facts stipulated in paragraphs one (1) through five (5) constitute a violation of TENN. CODE ANN. § 63-7-302:

ARTICLE III – General Provisions and Jurisdiction.

- (b) Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.
- (c) Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.

ARTICLE V – Adverse Actions.

- (c) A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state.
- (d) For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

- (e) The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.

REASONS FOR THE DECISION

It is the duty of the Board of Nursing to protect the citizens of Tennessee. The Board found this nurse's actions are a threat to the wellbeing of the patients and citizens of Tennessee. As such, discipline is appropriate.

THEREFORE, it is **ORDERED** as follows:

1. Respondent's privilege to practice as a registered nurse in Tennessee under the multistate privilege afforded to her by her Virginia license shall be **REVOKED**, pursuant to the authority vested in the Board under TENN. CODE ANN. §§63-7-115 and 116.
2. Respondent is assessed two (2) Type A Civil Penalties in the amount of one thousand dollars (\$1,000.00) each, representing Respondent's diversion and errors in documentation to hide her diversion, for a total of two thousand dollars (\$2,000.00). In assessing this Civil Penalty the Board has considered the following factors listed in TENN. COMP. R. & REGS. 1000-01-.04(6)(c):
 - A. Whether the amount imposed will be a substantial economic deterrent to the violator;
 - B. The circumstances leading to the violation
 - C. The economic benefits gained by the violator as a result of non-compliance; and,
 - D. The interest of the public.

These civil penalties are assessed in accordance with TENN. CODE ANN. §63-1-134(a) and (b) and TENN. COMP. R. & REGS. 1000-01-.04(6) and shall be paid in full within twenty-four (24) months from the effective date of this Order.

3. Respondent shall pay the costs of this action pursuant to TENN. CODE ANN. §§63-7-115(d) and 63-1-144, and TENN. COMP. R. & REGS. 1000-01-.04(11). These costs will be established by an Assessment of Costs prepared by counsel for the Department. The Assessment of Costs shall not exceed five thousand dollars (\$5,000.00) and shall be paid in full within twenty-four (24) months from the issuance of the Assessment of Costs.

NOTICE

10. The revocation and civil penalties are formal disciplinary actions and will be reported to the National Practitioner Data Bank (NPDB).
11. Civil penalties are hereby assessed pursuant to TENN. COMP. R. & REGS. 1000-01-.04(6) and TENN. CODE ANN. §63-1-134(c), which states in particular:
 - (a) Civil penalties assessed pursuant to this section are final, due and payable as of the date shown on the certificate of filing below.
 - (b) If the violator fails to pay an assessment when it becomes final, the department may apply to the appropriate court for a judgment and seek execution of such judgment.
12. All costs and civil penalty payments shall be paid in *certified funds only* (**certified check, cashier's check, or money order**) to the State of Tennessee, which shall be mailed or delivered to: Disciplinary Coordinator, Tennessee Department of Health, Office of Investigations, 665 Mainstream Drive, Second Floor, Nashville, Tennessee 37243.

13. A notation shall be placed on the instrument designating that it is payable for the costs and/or civil penalty of Melanie Van Dyke, Case No. 201601753.
14. A violation of this Order shall constitute a separate violation, pursuant to TENN. CODE ANN. §63-7-115(a)(1)(G), and is grounds for further disciplinary action by the Board.

SO ORDERED this 23rd day of August, 2017, by the Tennessee Board of Nursing.

Martha Buchanan PhD, RN

Chairperson/Acting Chairperson
Tennessee Board of Nursing

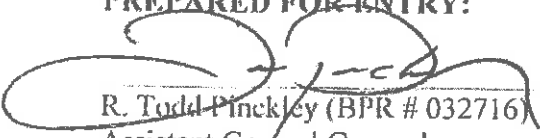
RECONSIDERATION, ADMINISTRATIVE RELIEF AND JUDICIAL REVIEW

Within fifteen (15) days after the entry of an initial or final order, a party may file a petition to the Board for reconsideration of the Final Order. If no action is taken within twenty (20) days of filing of the petition with the Board, it is deemed denied. TENN. CODE ANN. § 4-5-317.

In addition, a party may petition the Board for a stay of the Final Order within seven (7) days after the effective date of the Final Order. TENN. CODE ANN. § 4-5-316.


Finally, a party may seek judicial review by filing a petition for review in the Chancery Court of Davidson County within sixty (60) days after the effective date of the Final Order. A petition for reconsideration does not act to extend the sixty (60) day period; however, if the petition is granted, then the sixty (60) day period is tolled and a new sixty (60) day period commences from the effective date of the Final Order disposing of the petition. TENN. CODE ANN. § 4-5-322.

PREPARED FOR ENTRY:


R. Todd Pinckley (BPR # 032716)
Assistant General Counsel
Tennessee Department of Health
Office of General Counsel
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243
(615) 741-1611

CERTIFICATE OF FILING

This Order was received for filing in the Office of the Secretary of State, Administrative Procedures Division, and became effective on the 24 day of August, 2017.


Richard Collier, Director
Administrative Procedures Division

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Melanie Van Dyke, P.O. Box 211, Rosedale, Virginia, 24280; 611 Arrow Head Circle, Rosedale, Virginia 24280; and 1274 College Estates Road, Cedar Bluff Virginia 24609, by United States mail, certified numbers 70160600000065075580, 70160600000065075597 and 70160600000065075603 return receipts requested, and by United States mail, First Class, with sufficient postage thereon to reach its destinations.

This ____ day of August, 2017.


R. Todd Pinckley (BPR # 032716)
Assistant General Counsel