

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: REBECCA ANNE TOLBERT, L.P.N.
License Number: 0002-053554
Case Number: 178065

ORDER

JURISDICTION AND PROCEDURAL HISTORY

Pursuant to Virginia Code §§ 2.2-4019 and 54.1-2400(10), a Special Conference Committee of the Virginia Board of Nursing (“Board”) held an informal conference on October 4, 2017, in Henrico County, Virginia, to inquire into evidence that Rebecca A. Tolbert, L.P.N., may have violated certain laws and regulations governing the practice of practical nursing in the Commonwealth of Virginia.

Rebecca Anne Tolbert, L.P.N., appeared at this proceeding and was not represented by legal counsel.

NOTICE

By letter dated September 6, 2017, the Board sent a Notice of Informal Conference (“Notice”) to Ms. Tolbert notifying her that an informal conference would be held on October 4, 2017. The Notice was sent by certified and first class mail to the legal address of record on file with the Board.

Upon consideration of the evidence, the Committee adopts the following Findings of Fact and Conclusions of Law and issues the Order contained herein.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Rebecca Anne Tolbert, L.P.N., was issued License Number 0002-053554 to practice practical nursing on September 26, 1996, which expired on March 31, 2017. At all times relevant to the findings contained herein, said license was current and active. Her primary state of residence is Virginia.

2. By Order of the Board entered on November 19, 2014 (“Board’s Order”), Ms. Tolbert’s license was reinstated contingent upon her continued compliance with the Health Practitioners’ Monitoring Program (“HPMP”), which she had entered on October 16, 2014, due to substance abuse.

3. Ms. Tolbert violated Virginia Code § 54.1-3007(6) and Term Number 1 of the Board’s Order, which required that she continue complying with the terms and conditions of the HPMP, in that on December 5, 2016, she was urgently dismissed from the HPMP for failing to comply with her toxicology screenings. Specifically, Ms. Tolbert failed to call the drug test line seven times between August 14, 2015 and November 25, 2016, and she missed screening six times between May 24, 2016, and November 9, 2016. Ms. Tolbert reported that although she missed six screenings, she still averaged one screen per month and all screens were negative.

4. Ms. Tolbert violated Virginia Code § 54.1-3007(6) in that she is unsafe to practice practical nursing due to alcohol abuse. On March 4, 2015, in the Accomack, Virginia, General District Court, she was convicted of driving while intoxicated, second offense within five to ten years, a misdemeanor. She was sentenced to 12 months in jail, with 11 months and 10 days suspended, and ordered to complete the Virginia Alcohol Safety Action Program (“VASAP”) and have an ignition interlock installed. She was also ordered to pay \$1,361.00 in fines and court costs. Ms. Tolbert submitted a letter from the Chesapeake Bay ASAP which reported that she is in compliance. Ms. Tolbert stated that she has satisfied all court fees and will have the ignition interlock until March 2018.

5. Ms. Tolbert reported a sobriety date of March 3, 2015, and stated that she last used cocaine in 2008. She attends Alcoholics Anonymous meetings once a week and has had the same sponsor for the past two years.

6. Ms. Tolbert reported that since her HPMP dismissal, she has voluntarily continued counseling at the community services board. She currently sees a therapist every two weeks, who sent

a letter of support identifying that all drug screens have been negative for the past two years and that Ms. Tolbert has attended all recommended group and individual treatment sessions.

7. Ms. Tolbert reported that she last practiced nursing in 2007, and last completed continuing education in 2014.

8. Ms. Tolbert has maintained employment in a non-nursing capacity. She reported a solid support system, including her sister, who spoke on Ms. Tolbert’s behalf at the informal conference, and described in detail the numerous areas of improvements in Ms. Tolbert’s life that have contributed to her sustained sobriety. Ms. Tolbert stated that she hopes to return to nursing practice, but understands the need for monitoring.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Nursing hereby ORDERS as follows:

1. Rebecca Anne Tolbert, L.P.N., is REPRIMANDED.
2. Upon the renewal of her license, Rebecca Anne Tolbert, L.P.N., shall be placed on PROBATION subject to the following terms and conditions:
 - a. The Board shall issue Ms. Tolbert a license marked “Valid in Virginia Only: Probation with Terms.”
 - b. The period of probation shall begin on the date that this Order is entered and shall end at such time as Ms. Tolbert has completed two years of active practical nursing practice.
 - c. The license shall be reinstated without restriction upon completion of the probation terms unless there is a pending investigation or unresolved allegation involving a violation of law or regulation or any term or condition of probation. In that event, the period of probation shall be continued

indefinitely until such time as the Board makes a case decision in accordance with the Administrative Process Act (Virginia Code § 2.2-4000 *et seq.*) and Virginia Code § 54.1-2400(9).

d. Ms. Tolbert shall not practice practical nursing until written evidence is provided of passage of a Board-approved nursing refresher course.

e. Ms. Tolbert shall not use alcohol or any other mood altering chemical, except as prescribed by a health care practitioner with whom she has a bona fide practitioner/patient relationship and for accepted medicinal or therapeutic purposes. Should she be prescribed any Schedule II-V controlled medication, a written report from the prescribing practitioner shall be provided to the Board within ten days of the date the medication is prescribed.

f. Ms. Tolbert shall have one supervised, observed, random drug screen per month, from a Board approved testing entity, which includes testing for alcohol and the following drugs of choice: cocaine and opiates. Ms. Tolbert shall ensure that the first set of results are received by the Board no later than 60 days from the date that her license is renewed. Subsequent results must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends. The Board shall be notified immediately in writing of any positive results or if Ms. Tolbert refuses to give a specimen for analysis as required by this Order. All positive results must be confirmed by a confirmatory drug test, the results of which are to be sent to the Board immediately.

g. Ms. Tolbert shall attend Alcoholics Anonymous recovery support groups or other groups acceptable to the Board two times per week and shall have written evidence of attendance by a sponsor or contact person sent to the Board monthly, by the last day of the month of attendance.

h. Ms. Tolbert shall submit “Self Reports” which include a current address, telephone number, email address, and verification of any and all current practice employment. These reports shall also include any changes in practice employment status. Self Reports must be submitted

whether Ms. Tolbert has current practice employment or not. The reports shall be submitted on a quarterly basis to the Board, with the first report due no later than 60 days from the date of entry that her license is renewed and subsequent reports due the last day of the March, June, September, and December until Ms. Tolbert is notified, in writing, that the reporting requirement is ended. Ms. Tolbert shall notify the Board within ten days, in writing, of any changes in the location of her practice, additional practice locations, change in employment, including termination, suspension, separation, or other interruption in practice (including the name and address of any new employer and the date of employment), change in address, telephone number, or e-mail address, and criminal charges or convictions.

i. Ms. Tolbert shall provide her current and each future employer immediately upon employment with a copy of this Order in its entirety.

j. Ms. Tolbert shall ensure that the employer shall provide quarterly reports to the Board regarding Ms. Tolbert’s clinical judgment, clinical performance, recordkeeping, documentation, medication administration and overall performance. The reports shall be submitted on a quarterly basis to the Board, with the first report due no later than 60 days from the date that her license is renewed, and subsequent reports due the last day of the months of March, June, September and December until Ms. Tolbert is notified, in writing, that the reporting requirement is ended.

k. Ms. Tolbert shall ensure that the therapist shall provide quarterly reports to the Board regarding Ms. Tolbert’s diagnosis, recommended course of therapy, progress in therapy, compliance with medication management and a prognosis. Ms. Tolbert shall direct the therapist to notify the Board if she withdraws from the treatment program before being officially discharged by the therapist. The reports shall be submitted on a quarterly basis to the Board, with the first report due no later than 60 days from the date that her license is renewed, and subsequent reports due the last day of

the months of March, June, September and December until Ms. Tolbert is notified, in writing, that the reporting requirement is ended.

1. Ms. Tolbert shall sign all required medical releases and authorization forms within 60 days of the date that her license is renewed allowing for unrestricted communication between and among the Board and her employer(s) or potential or intended employer(s) and her current and future treating healthcare provider(s).

3. Ms. Tolbert shall bear any costs associated with the terms and conditions of this Order.

4. Ms. Tolbert shall comply with all laws and regulations governing the practice of practical nursing in the Commonwealth of Virginia.

5. Any violation of the foregoing terms and conditions of this Order or any statute or regulation governing the practice of practical nursing shall constitute grounds for further disciplinary action.

6. Failure to comply with all terms and conditions of this Order within five years of the date of entry of the Order may be reason for revoking or suspending the license of Ms. Tolbert and an administrative proceeding shall be held to determine whether to impose such action.

7. This Order shall remain in effect until the Board has notified Ms. Tolbert in writing that she is released from probation.

8. The Executive Director of the Board is authorized to issue an Order or letter acknowledging satisfactory completion of the foregoing conditions or to refer the matter to an administrative proceeding for review of Ms. Tolbert's compliance with the foregoing conditions.

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 and copying upon request.

FOR THE BOARD



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

ENTERED AND MAILED: November 2nd, 2017

NOTICE OF RIGHT TO APPEAL

Pursuant to Virginia Code § 54.1-2400(10), Ms. Tolbert may, not later than 5:00 p.m., on December 5, 2017, notify Jay Douglas, M.S.M, R.N., C.S.A.C., F.R.E., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing that she desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated. This Order shall become final on December 5, 2017, unless a request for a formal administrative hearing is received as described above.

Certified True Copy

By 
Virginia Board of Nursing