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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

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TEL (804) 367-4400
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November 1, 2017

Jerry Ray Harper, III, R.N.
50 McPeck Drive
Martinsville, VA 24112

DUPLICATE COPY
VIA FIRST CLASS MAIL

DATE 11/1/17

RE: License Number: 0001-213992
Case Number: 183628

Dear Mr. Harper:

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 October 31, 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 P. 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,

[Signature: Anne Joseph]

Anne Joseph, Deputy Director
Administrative Proceedings Division

cc: Jay P. 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: JERRY RAY HARPER, III, R.N.
License Number: 0001-213992
Case Number: 183628

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 Carolina Board of Nursing suspended the multistate licensure privilege of Jerry Ray Harper, III, R.N., to practice as a registered nurse in that State. A certified copy of the Final Decision and Order 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 Jerry Ray Harper, III, R.N., to practice professional nursing in the Commonwealth of Virginia is hereby SUSPENDED.

Upon entry of this Order, the license of Jerry Ray Harper, III, R.N., will be recorded as suspended and no longer current and valid. Should Mr. Harper 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. Harper'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:

10/31/17

CERTIFICATION OF DUPLICATE RECORDS

I, David E. Brown, D.C., Director of the Department of Health Professions, hereby certify that the attached Final Decision and Order entered September 21, 2017, regarding Jerry Ray Harper, III, R.N., is a true copy of the records received from the North Carolina Board of Nursing.



David E. Brown, D.C.

10/31/17 _____
Date



**BEFORE THE BOARD OF NURSING
OF THE STATE OF NORTH CAROLINA**

I certify that this is a true and accurate copy of its original and has been kept in the ordinary course of business in the office of the North Carolina Board of Nursing.
Jessie L. Harper
Executive Director of the Board

In the matter:)
)
JERRY RAY HARPER, III)
REGISTERED NURSE)
VIRGINIA LICENSE NUMBER 0001213992)

FINAL DECISION AND ORDER

This matter was heard on August 31, 2017 by a hearing committee of the North Carolina Board of Nursing ("Board") pursuant to Article 9A, Chapter 90 of the North Carolina General Statutes and Article 3A, Chapter 150B of the North Carolina General Statutes and Title 21, Chapter 36 of the North Carolina Administrative Code Section .0217. Board members present for the Hearing Committee ("Committee") were: Mary Jones, LPN, Presiding Officer; Martha Ann Harrell, Public Member; and Deborah B. Herring, RN. The Board was assisted and advised by Administrative Law Counsel Paul Flick. Prosecuting attorney for the Board was Meredith Parris. Jerry Ray Harper, III ("Licensee") was not present.

Based upon the evidence presented and the argument of counsel, the Board enters the following:

FINDINGS OF FACT

1. The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 9A, Chapter 90 of the North Carolina General Statutes.
2. Licensee is the holder of Virginia Multistate Registered Nurse License Number 0001213992, which expires on March 31, 2018.
3. Beginning March 2013, Licensee was employed as a traveler RN through Cirrus Medical Staffing. On February 2, 2015, Licensee began an assignment in the Intensive Care Float Pool at Duke University Medical Center ("DUMC") in Durham, North Carolina. Licensee was frequently assigned to the Neurology Intensive Care Unit to work the night shift.
4. In early July 2016, the pharmacy department at DUMC contacted Amy Slonac, the Nurse Manager in the Neurology Intensive Care Unit, DUMC. A Pandora report flagged Licensee as having a high number of removals for Fentanyl and Dilaudid from the Omnicell machine during June 2016.
5. This matter was then referred to management in the Float Pool Unit. An internal audit was conducted by Vahnpenh Somischack, Director of the Float Pool Unit at DUMC, which revealed Licensee's inconsistent practices in wasting and documentation of controlled substances and a consistent pattern was apparent. This information was reported to the Board on August 10, 2016.

6. Board staff investigator Anne Hardee was assigned this case and conducted an audit of twelve (12) patient records cared for by Licensee during June 2016. Twenty-five (25) transactions of Licensee's controlled substance removals between June 1, 2016 through June 23, 2016 revealed numerous discrepancies in withdrawals and administrations of controlled substances, specifically with delayed administration up to two (2) hours after removing the medication. Additionally, for one (1) patient, Licensee removed controlled substances three (3) times without a physician's order. The controlled substances involved in these transactions were Fentanyl, Dilaudid, and Oxycodone.

7. Board staff made numerous attempts to contact Licensee by telephone, regular mail, electronic mail, and certified mail to the numbers and addresses of record at the Board during the investigation. After responding via e-mail at the beginning of the investigation, Licensee did not communicate with Board staff during the investigation.

8. While this matter was pending, Board staff became aware of a Virginia Board of Nursing ("VABON") Consent Order acknowledged by Licensee on August 4, 2016. In this order, Licensee was issued a Reprimand by the VABON after finding that Licensee had violated the laws and rules of their practice act. Specifically, the order referenced a pattern of documentation issues in early 2015 related to administration of Dilaudid and oxycodone, as well as documentation issues with Licensee's nursing practice with these same substances while Licensee worked at Wake Forest University Baptist Medical Center in late 2015.

9. On or about December 12, 2016, a Letter of Charges and an offer of resolution were sent via certified mail return receipt requested to Licensee at the address of record with the Board to 50 McPeck Drive, Martinsville, Virginia.

10. On or about June 26, 2017, a Notice of Hearing was sent via certified mail return receipt requested to the address of record at the Board in compliance with the Rules of Civil Procedure. This Notice was also sent via certified mail return receipt requested to an additional address associated with Licensee to 144 Saint Johns Circle, Martinsville, Virginia. One (1) mailing was returned marked "unclaimed" and the other mailing return receipt was signed by someone other than Licensee, Brian Taylor, who also signed the return receipt for the Letter of Charges.

11. On July 19 and 26, 2017 and August 2, 2017, the Notice of Hearing was also published in The Martinsville Bulletin, a newspaper which is circulated in the area where Licensee was believed to be located, in accordance with the Rules of Civil Procedure. The cost of this publication to the Board was \$189.18.

12. At the August 31, 2017 hearing, Board witnesses were as follows:

- a. Amy Slonac, Nurse Manager, Neurology Intensive Care Unit, Duke University Medical Center;
- b. Vahnpenh Somischack, Director, Float Pool Unit, Duke University Medical Center; and
- c. Anne Hardee, Investigator, Board of Nursing.

13. Licensee did not appear on August 31, 2017 nor did any witnesses testify on his behalf.

14. At the hearing, the following exhibits were presented and admitted into evidence without objection on behalf of the Board:

- a. Notice of Hearing;
- b. Patient Records;
- c. Audit;
- d. Letter of Charges dated December 13, 2016;
- e. Letter of Charges dated February 8, 2017; and
- f. Virginia Board of Nursing Consent Order.

15. No exhibits were presented on behalf of Licensee.

CONCLUSIONS OF LAW

1. The Notice of Hearing was served in accordance with N.C. Gen. Stat. §150B-38. This matter is properly before the Board, and the Board has jurisdiction over Licensee and the subject matter of this case.

2. Pursuant to the provisions of N.C. Gen. Stat. §90-171.37 and §150B the Board is vested with the power and authority to revoke or suspend a license to practice nursing and invoke other such disciplinary measures such as censure or probative terms against a licensee as it deems fit and proper in furtherance of its duty to protect the public.

3. Licensee has violated the provisions of Article 9A of the Nursing Practice Act and the rules enacted by the Board in 21 N.C. Admin. Code 36 .0217(c) within the meaning of N.C. Gen. Stat. §90-171.37(7) and (8) and grounds exist under those sections of the North Carolina Statutes for the Board and rules promulgated there under to revoke or suspend a license to practice nursing and invoke other such disciplinary measures against a license as it deems fit and proper.

4. Licensee engaged in conduct that endangered the public health within the meaning of N.C. Gen. Stat. §90-171.37(4) and grounds exist under that section of the North Carolina General Statutes for the Board to revoke or suspend a license to practice nursing and invoke other such disciplinary measures against the license as it deems fit and proper.

5. Licensee engaged in conduct that deceived, defrauded or harmed the public in the course of professional activities or services within the meaning of N.C. Gen. Stat. §90-171.37(6) and grounds exist under that section of the North Carolina General Statutes for the Board to revoke or suspend a license to practice nursing and invoke other such disciplinary measures against the license as it deems fit and proper.

6. Licensee was practicing or offering to practice beyond the scope permitted by law within the meaning of 21 N.C. Admin. Code 36 .0217(c)(6) and grounds exist under that section of the North Carolina Administrative Code for the Board to revoke or suspend Licensee's license to practice nursing and invoke other such disciplinary measures against his license as it deems fit and proper.

7. Licensee failed to maintain an accurate record for each client which records all pertinent health care information as defined in Rule .0224(f)(2) within the meaning of 21 N.C. Admin. Code 36 .0217(c)(11) and grounds exist under that section of the North Carolina Administrative Code for the Board to revoke or suspend a license to practice nursing and invoke other such disciplinary measures against the license as it deems fit and proper.

8. Licensee failed to verify the proper administration and disposal of controlled substances through her documentation within the meaning of 21 N.C. Admin. Code 36 .0224(f)(2)(E) and grounds exist under that section of the North Carolina Administrative Code for the Board to revoke or suspend a license to practice nursing and invoke other such disciplinary measures against the license as it deems fit and proper.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board enters the following:

ORDER

1. The Registered Nurse Privilege to Practice shall be **SUSPENDED**. This suspension shall be for a minimum of twelve (12) months.
2. The Board will not recommend to the Division of Health Services Regulation that Licensee be eligible to request listing as a Nurse Aide I.
3. Licensee may not be listed on the Nurse Aide II Registry.
4. At such time as he is permitted, Licensee shall appear before the Licensure Review Panel ("LRP") and comply with all decisions of the LRP.
5. In accordance with N.C. Gen. Stat. §90-171.27(e) and Board of Nursing policy derived there from, a fee may be assessed for the cost of disciplinary actions. In the matter involved, Licensee shall be assessed a fee of \$300.00 for administrative costs and \$189.18 for costs for service of process of the Notice of Hearing. The total fee, \$489.18, shall be paid prior to the granting of an appearance before the LRP.
6. This ORDER is public record, as required by N.C. General Statute §132 and will be placed in Licensee's file. All disciplinary actions taken by the Board shall be reported to the appropriate entities as outlined in Board policy, and as required by state and/or federal guidelines. Those entities include, but may not be limited to, NURSYS, National Practitioner Data Bank (NPDB), the Office of the Inspector General (OIG), and any other state/jurisdiction in which Licensee is, or has been, licensed.

The Recommended Decision of the Hearing Committee made the 31st day of August, 2017, having been ratified on this the 21st day of September, 2017, is hereby final.

Pat Campbell

Pat Campbell, Board Chair
North Carolina Board of Nursing