

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

ELLYN ELIZABETH WESSELLS ALGARIN

ORDER

Pursuant to § 9-6.14:11, § 54.1-2400(10) and § 54.1-3010 of the Code of Virginia (1950), as amended (the "Code"), a Special Conference Committee ("Committee") of the Board of Nursing met on August 29, 2001, in Henrico County, Virginia, to receive and act upon evidence regarding the petition of Ellyn Elizabeth Wessells Algarin for reinstatement of her license to practice professional nursing in the Commonwealth of Virginia, which was indefinitely suspended by Consent Order entered July 29, 1994, and to receive and act upon evidence that Ellyn Elizabeth Wessells Algarin may have violated certain laws and regulations governing the practice of professional nursing in Virginia. Ms. Algarin was present and was not represented by counsel. Upon consideration of the evidence presented, the Committee adopted the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Ellyn Elizabeth Wessells Algarin previously held License No. 0001-121823 issued by the Board of Nursing, to practice professional nursing in the Commonwealth. Ms. Algarin also previously held License No. 0024-121823 to practice as a licensed nurse practitioner in the category of family nurse practitioner, issued by the Committee of the Joint Boards of Nursing and Medicine.
2. On September 21, 1992, in the Circuit Court of the City of Virginia Beach, Virginia, Ms. Algarin pled guilty to one (1) count of prescription fraud [*Case No. 92-1807*], with an offense date of December 7, 1991. Ms. Algarin was sentenced to confinement in the

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penitentiary for three (3) years, suspended, conditional upon her being of good behavior for three (3) years, and paying costs. Three (3) additional counts of prescription fraud, with offense dates of October 5, 1991, October 18, 1991, and October 21, 1991, were ordered *nolle prosequi*. On January 16, 1996, in the Circuit Court of the City of Virginia Beach, Virginia, the suspension of the sentence imposed on September 21, 1992, [CR92-1807] was revoked, and it was ordered that the un-served portion of the three (3) year sentence be executed. The court re-suspended the three (3) year sentence, conditional upon Ms. Algarin's compliance with "all the rules and regulations of the Probation Office until as deemed necessary by the probation officer," her being of good behavior, and paying costs. The conditions of the indefinite probation, acknowledged by Ms. Algarin's signature on March 12, 1996, include: not using alcoholic beverages to excess, and not illegally using, possessing or distributing narcotics, dangerous drugs, controlled substances, or drug paraphernalia. On or about August 27, 1997, in the Circuit Court of the City of Virginia Beach, Virginia, the suspension of the sentence imposed on September 21, 1992, [CR92-1807] was revoked, and it was ordered that the un-served portion of the three (3) year sentence be executed. The court again suspended the execution of the sentence originally imposed on September 21, 1992, and January 16, 1996, on the same conditions as previously imposed and conditioned on your paying costs of \$133.50 plus any unpaid costs previously assessed.

3. By Consent Order entered by the Board of Nursing on July 27, 1994, Ms. Algarin's license to practice as a professional nurse was indefinitely suspended, based on her obtaining prescriptions by fraud in 1991 and 1993, and her conviction of prescription fraud in 1992.
4. By Consent Order entered by the Committee of the Joint Boards of Nursing and Medicine

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on July 29, 1994, Ms. Algarin's license to practice as a licensed nurse practitioner was indefinitely suspended, based on her obtaining prescriptions by fraud in 1991 and 1993, and her conviction of prescription fraud in 1992.

5. On March 1, 1995, in the Circuit Court of the City of Virginia Beach, Virginia, Ms. Algarin pled guilty to five (5) counts of prescription fraud [*Case No. 94-2745*], with offense dates of January 15 and 21, 1994, February 10 and 26, 1994, and April 20, 1994. Ms. Algarin was sentenced to confinement in the penitentiary for three (3) years on each charge, consecutively for a total of fifteen (15) years. This sentence was suspended, conditional upon her being of good behavior for fifteen (15) years, complying with intensive supervised probation until released by the court, paying costs, receiving any treatment recommended by the probation officer, and continuing with Michael Bohan, M.D., in treatment. The conditions of the indefinite probation, acknowledged by Ms. Algarin's signature on March 16, 1996, include: not using alcoholic beverages to excess, and not illegally using, possessing or distributing, controlled substances or drug paraphernalia. On or about October 6, 1999, in the Circuit Court of the City of Virginia Beach, Virginia, the Court revoked the suspension of the March 1, 1995, sentence, and ordered that the un-served portion of the sentence originally imposed be executed. The court again suspended the execution of the sentence originally imposed in *CR94-2745*, on the same conditions as previously imposed.
6. On May 24, 1995, in the Circuit Court of the City of Virginia Beach, Virginia, Ms. Algarin pled guilty to one (1) count of grand larceny [*Case No. 95-1335*], with an offense date of February 1, 1995. Ms. Algarin was sentenced to confinement in the penitentiary for three (3) years, suspended, conditional upon her being of good behavior

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for three (3) years, paying costs, continuing in drug counseling, and never going to any Leggett's department store in Virginia Beach. On or about October 6, 1999, in the Circuit Court of the City of Virginia Beach, Virginia, the Court revoked the suspension of the May 24, 1995, sentence, and ordered that the un-served portion of the sentence originally imposed be executed. The court again suspended the execution of the sentence originally imposed in *CR95-1335*, on the same conditions as previously imposed.

7. On March 12, 1997, in the Circuit Court of the City of Virginia Beach, Virginia, Ms. Algarin pled guilty to five (5) counts of prescription fraud [*CR96-2990*], with offense dates of April 6, 13, 20, and 27, 1996, and May 2, 1996. Ms. Algarin was sentenced to incarceration in the Virginia Department of Corrections for four (4) years on each charge, consecutively, for a total of twenty (20) years. This sentence was suspended, conditional upon her being of good behavior for twenty (20) years; complying with "all the rules and requirements set by the probation officer," to include substance abuse counseling and/or testing, until released by the probation officer; paying costs; and timely notification to the probation officer of any appointment scheduled with a physician or medical practitioner, and any prescription obtained. On or about October 6, 1999, in the Circuit Court of the City of Virginia Beach, Virginia, the Court revoked the suspension of the March 12, 1997 sentence, and ordered that the un-served portion of the sentence originally imposed be executed. The court again suspended the execution of the sentence originally imposed in *CR96-2990*, on the same conditions as previously imposed.
8. By Order entered December 19, 1997, Ms. Algarin's petition for reinstatement of her license to practice as a professional nurse was denied. By her own admission, Ms. Algarin

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relapsed between approximately the fall of 1997 and April 1998, and was abusing Vicodin (hydrocodone), a Schedule III controlled substance, at the time of her appearance before the Board of Nursing on December 3, 1997, wherein she sought reinstatement of her license to practice professional nursing. By her own admission, during Ms. Algarin's relapse between approximately the fall of 1997 and April 1998, she forged prescriptions and was self-administering up to 40 tablets of Vicodin per day.

9. Between April 20, 1998 and April 24, 1998, Ms. Algarin received detoxification treatment at the Department of Veterans Affairs Medical Center, Hampton, Virginia.
10. On March 31, 1999, in the Circuit Court of Virginia Beach, Virginia, Ms. Algarin was convicted of ten (10) counts of felony prescription fraud [CR98-4656], and on or about October 6, 1999, was sentenced to "incarceration in the Virginia Department of Corrections for the term of two (2) years on each charge. The total sentence imposed is twenty (20) years." The court suspended all but two (2) years of the sentence conditioned on her being of good behavior for twenty (20) years, and being placed on and complying with supervised probation upon release from confinement until released by her probation officer.
11. On or about April 9, 1999, the Board received an application for reinstatement of Ms. Algarin's license as a professional nurse. In November 1999, information was received that Ms. Algarin was unable to pursue reinstatement at that time. On or about June 4, 2001, the Board received a new application for reinstatement of Ms. Algarin's professional nurse license, as well as an application for reinstatement of her license as a nurse practitioner. On these applications Ms. Algarin reported that "New York State suspended" her "RN and LNP licenses in 2001 as a result of actions taken by Virginia specifically prescription fraud convictions." A review of public records revealed that on

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March 20, 2001, Board of Regents of the New York State Education Department, Office of Professional Discipline, State Board for Nursing took action on Ms. Algarin's licenses, granting her application to surrender her license and certificate, based on Ms. Algarin's admission to being convicted of committing a crime, Prescription Fraud, in another jurisdiction which if committed in New York would have constituted a crime under New York State law.

12. By letter dated June 29, 2001, Linda Kleiner, R.N., Case Manager, Virginia Monitoring, Inc., Hampton, Virginia, reported that on May 12, 1998, she had signed a Participation Contract with the Health Practitioners' Intervention Program ("HPIP"), pursuant to Chapter 25.1 of Title 54.1 of the Code of Virginia (1950), as amended, and 18 VAC 76-10-10, et seq., of the Regulations Governing the Health Practitioners' Intervention Program. She signed a Recovery Monitoring Contract on July 16, 1998. Following her June 25, 2001, release from prison, she met with Ms. Kleiner on June 29, 2001, and was offered a revised Recovery Monitoring Contract which Ms. Algarin has signed. Ms. Kleiner reported to the Committee during the informal conference that Ms. Algarin continued to participate in HPIP monitoring while incarcerated, and was pro-active in maintaining her recovery. Ms. Kleiner finds Ms. Algarin's recovery to be a priority in her life, and recommends Ms. Algarin's return to nursing.
13. Ms. Algarin reported to the Committee that she has maintained her nursing knowledge by teaching in the medical field, doing health screenings and seminars, taking nursing education courses, and reading nursing texts and journals.
14. Ms. Algarin reported to the Committee that her recovery consists of calling her sponsor and others, completing a day recovery program, group therapy, aftercare, Caduceus and

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Alcoholics Anonymous on a weekly basis.

15. By letter dated August 20, 2001, Michael E. Bohan, M.D., Meridian Psychotherapy, Virginia Beach, Virginia, reported that Ms. Algarin has been in recovery for forty (40) months, before, during and after her incarceration. He reported that she continues active participation in Alcoholics Anonymous, aftercare, and therapy. Dr. Bohan wholeheartedly supports Ms. Algarin's return to work in the healthcare field.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact Nos. 2 through 11, the Committee concludes that Ellyn Elizabeth Wessells Algarin has violated § 54.1-3007(3), (4), (6) and (7) of the Code of Virginia (1950), as amended; 18 VAC 90-20-300(A)(2)(c) of the regulations governing the practice of nursing in the Commonwealth of Virginia. Further, the Committee concludes that Ellyn Elizabeth Wessells Algarin has met the requirements of § 54.1-3009 of the Code and that she is competent to return to the practice of nursing with reasonable skill and safety to patients, subject to certain restrictions, as more fully set forth below.

ORDER

On the basis of the foregoing, the Committee, effective upon entry of this Order, hereby ORDERS that the license of Ellyn Elizabeth Wessells Algarin to practice professional nursing in the Commonwealth of Virginia, License No. 0001-121823, be, and hereby is, REINSTATED, subject to the following terms and conditions:

1. Ms. Algarin shall comply with all terms and conditions for the period specified by the HPIP.
2. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Ellyn Elizabeth Wessells Algarin, and an administrative proceeding shall be held to decide whether her license shall be revoked. Ms. Algarin shall be noticed to appear

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before a Committee at such time as the Board is notified that:

- a) Ms. Algarin is not in compliance with the terms and conditions specified by the HPIP, or has been terminated from participation in the HPIP, or
- b) There is a pending investigation or unresolved allegations against Ellyn Elizabeth Wessells Algarin involving a violation of law, regulation or any term or condition of this order, or,
- c) Ms. Algarin has successfully completed the specified period of participation in the HPIP. However, upon receipt of evidence of Ms. Algarin's participation in and compliance with the HPIP, the Committee, at its discretion, may waive Ms. Algarin's appearance before the Committee, and conduct an administrative review of this matter.

Pursuant to § 9-6.14:14 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as public record and shall be made available for public inspection or copying on request.

If Ms. Algarin does not consent to the Committee's decision and desires a hearing before the Board or a panel thereof, she shall notify, in writing, Nancy K. Durrett, R.N., M.S.N., Executive Director, Board of Nursing, 6606 W. Broad Street, Fourth Floor, Richmond, Virginia 23230-1717 within thirty-three (33) days from the date of entry of this Order. This Order shall become final upon the expiration of the thirty-three (33) day period unless a written request for a formal hearing is received within such time. Upon receiving timely request for a hearing, the Board or panel thereof shall then proceed with a hearing as provided in § 9-6.14:12 of the Code of Virginia (1950), as amended.



ELLYN ELIZABETH WESSELLS ALGARIN

FOR THE BOARD

*Nancy K. Durrett*

Nancy K. Durrett, R.N., M.S.N.  
Executive Director for the  
Board of Nursing

*September 20, 2001*

ENTERED

ELLYN ELIZABETH WESSELLS ALGARIN

Certificate of Service

I hereby certify that a certified true copy of the foregoing Order was mailed on this day to Ellyn Elizabeth Wessells Algarin at 3905 Dupress Lane, Virginia Beach, Virginia 23456.

Nancy K. Durrett  
Nancy K. Durrett, R.N., M.S.N.  
Executive Director for the  
Board of Nursing

September 20, 2001  
Date