

VIRGINIA

BEFORE THE BOARD OF NURSING

IN RE:

ELLYN E. WESSELLS ALGARIN

ORDER

Pursuant to § 9-6.14:11 and § 54.1-3010 of the Code of Virginia (1950), as amended (the "Code"), an informal conference was held before a Special Conference Committee of the Board of Nursing (the "Committee") on December 3, 1997, in Henrico County, Virginia, to receive and act upon evidence regarding the petition of Ellyn E. Wessells Algarin to reinstate her license to practice professional nursing in the Commonwealth of Virginia and to receive and act upon evidence that she 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 E. Wessells Algarin previously held License No. 0001-121823 issued by the Virginia Board of Nursing.
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, with an offense date of December 7, 1991. Ms. Algarin was sentenced to confinement in the 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*.
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

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- 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 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, 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.
 6. On or about March 13, 1995, Ms. Algarin was given an "unsatisfactory" discharge from treatment at Norfolk Substance Abuse Services, Norfolk, Virginia.
 7. 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, 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 for three (3) years, paying costs, continuing in drug counseling, and never going to any Leggett's department store in Virginia Beach.

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8. On or about December 14, 1995, Ms. Algarin successfully completed the Relapse Prevention Program of Recovery Center, Virginia Beach, Virginia.
9. 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, 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.
10. By her own admission, Ms. Algarin relapsed between March and May 1996.
11. On April 3, 1996, Ms. Algarin's application for reinstatement of her license as a registered nurse was received. In a conversation with an investigator for the Department of Health Professions, on or about May 21, 1996, Ms. Algarin withdrew this application for reinstatement based on her recent relapse and recent forgery of prescriptions.
12. Ms. Algarin has received treatment intermittently from Michael Bohan, M.D., Virginia Beach, Virginia, since approximately April 1992. She contacted Dr. Bohan on or about May 16, 1996, for a recommendation for a detoxification program. As of December 2, 1997, Ms. Algarin reinitiated chemical dependency monitoring with Dr. Bohan.
13. Since approximately May 1996, Ms. Algarin has been in a therapeutic relationship with Kathleen Stack, M.D., for treatment of depression, and medication management. As of May 5, 1997, Dr. Stack opined Ms. Algarin was ready to return to nursing, but recommended she not have access to drugs upon her initial re-licensure.
14. Between May 17, 1996, and May 22, 1996, Ms. Algarin received treatment through

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Recovery Center – Detoxification Facility, Community Services Board, Virginia Beach, Virginia. During this period Ms. Algarin abused prescribed Clonidine (Schedule VI) in that she refused to self-administer the medication and instead provided her patch to another resident who consequently suffered significant side-effects.

15. Ms. Algarin reported she last used drugs on July 31, 1996. Further, Ms. Algarin reported that her longest period of time free of substance abuse, since the age of sixteen (16), has been three (3) months.
16. Between May 29, 1996, and December 16, 1996, Ms. Algarin received opiate and alcohol dependency treatment with Evelyn H. Parham through the Drug Abuse Program of the Department of Veterans Affairs Medical Center (“VAMC”), Hampton, Virginia. Ms. Algarin was transferred to the Transitional Residence Program. As of May 8, 1997, she continued to have drug screens through this facility.
17. Ms. Algarin submitted to numerous urine drug screens, through more than one (1) facility, that yielded positive results:
 - a. Ms. Algarin’s urine drug screens of July 7, 1994, July 12, 1994, July 16, 1996, July 18, 1996, August 21, 1996, November 12, 1996, were positive for opiates.
 - b. Ms. Algarin’s urine drug screen of July 21, 1994, was positive for cocaine and methadone.
 - c. Ms. Algarin’s urine drug screens of December 5, 1994, and December 13, 1994, were positive for benzodiazepines and methadone.
 - d. Ms. Algarin’s urine drug screen of December 9, 1994, was positive for opiates and methadone.
 - e. Ms. Algarin’s urine drug screen of February 24, 1997, was positive for benzodiazepines.
18. On March 12, 1997, in the Circuit Court of the City of Virginia Beach, Virginia, Ms.

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Algarin pled guilty to five (5) counts of prescription fraud, 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.

19. In June 1996 and July 1996, Ms. Algarin underwent two (2) outpatient surgeries which included the prescription of opiate medication on each occasion. Ms. Algarin abused these medications, in that she obtained additional prescriptions and refills concurrently from more than one (1) physician.
20. As of May 2, 1997, Ms. Algarin's current court-ordered probation officer reported she remained in the VA Hospital residential program, although she had not been screened by this officer since April 1996. Ms. Algarin has remained in compliance with the conditions of her probation, with the exception of the March 1997 conviction which put her in violation of her March 1, 1995, probation; no date has been set for that Show Cause hearing.
21. Between May 12, 1997, and November 13, 1997, Ms. Algarin was employed as a teacher in a nurse aide program at Tidewater Tech, Chesapeake, Virginia. This employer is reported she was highly regarded by peers and students. She left this employment in good standing, and is currently a substitute instructor. This employer is aware she holds no license.
22. As of December 1997, Ms. Algarin reported attendance at approximately five (5)

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Alcoholics Anonymous or Narcotics Anonymous recovery support group meetings a week, and reports having a recovery support group sponsor.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes that Ellyn E. Wessells Algarin has violated § 54.1-3007(3), (4) and (6) of the Code of Virginia, (1950), as amended.

ORDER

WHEREFORE, on the basis of the foregoing, the Virginia Board of Nursing hereby ORDERS that the petition of reinstatement of Ellyn E. Wessells Algarin to practice professional nursing in the Commonwealth of Virginia be DENIED. Ms. Algarin may petition the Board after not less than one (1) year from the date of entry of this Order for reinstatement of her license to practice professional nursing, at which time a meeting will be convened to receive evidence satisfactory to the Board that Ms. Algarin is able to resume the safe and competent practice of nursing.

Pursuant to § 9-6.14:14 of the Code of Virginia (1950), as amended, 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-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.

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FOR THE BOARD

Nancy K. Durrett
Nancy K. Durrett, R.N., M.S.N.
Executive Director

ENTERED: December 19, 1997

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CERTIFICATE OF SERVICE

I hereby certify that a certified true copy of the foregoing Order was mailed on this day to Ellyn E. Wessells Algarin at 18-A Roland Drive, Hampton, Virginia 23669, the address of record, and to 3905 Dupree Lane, Virginia Beach, Virginia 23456.

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

DATE: December 19, 1997