

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: HELLEN YIAPAN, L.P.N. REINSTATEMENT APPLICANT
LicenseNumber: 0002-075077
Case Numbers: 130141, 172378

ORDER

JURISDICTION AND PROCEDURAL HISTORY

Pursuant to Virginia Code §§ 2.2-4020, 2.2-4024(F), and 54.1-2400(11), a panel of the Virginia Board of Nursing ("Board") held a formal administrative hearing on March 23, 2017, in Henrico County, Virginia, to receive and act upon Hellen Yiapan's application for reinstatement of her license to practice practical nursing in the Commonwealth of Virginia.

Hellen Yiapan appeared at this proceeding and was not represented by legal counsel.

NOTICE

By letter dated December 30, 2016, the Board sent a Notice of Formal Hearing ("Notice") to Ms. Yiapan notifying her that a formal administrative hearing would be held on January 26, 2017. The Notice was sent by certified and first class mail to the legal address of record on file with the Board. On January 19, 2017, Ms. Yiapan requested and received a continuance. By letter dated February 22, 2017, the Board sent an Amended Notice of Formal Hearing ("Amended Notice") to Ms. Yiapan notifying her that a formal administrative hearing would be held on March 23, 2017. The Amended 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 Board adopts the following Findings of Fact and Conclusions of Law and issues the Order contained herein.

FINDINGS OF FACT

1. On December 19, 2006, the Board issued License Number 0002-075077 to Hellen Yiapan to practice practical nursing in the Commonwealth of Virginia. Said license was mandatorily suspended by the Department of Health Professions on March 29, 2012. Her primary state of residence is Virginia. On December 22, 2015, Ms. Yiapan submitted an application for reinstatement; however, she later withdrew her application. On October 19, 2016, Ms. Yiapan submitted a new application for reinstatement.

2. On February 22, 2012, in the Criminal Court of Baltimore, Maryland, Ms. Yiapan was convicted of one count of Medicaid fraud and one count of conspiracy to commit Medicaid fraud, both felonies. Said convictions formed the basis of the mandatory suspension of her license to practice as a practical nurse in the Commonwealth of Virginia.

3. During the course of her employment with MBL Associates, Inc., Gaithersburg, Maryland, on April 18, 2009, Ms. Yiapan accepted a home health assignment to work the night shift providing nursing care to a pediatric patient with multiple congenital anomalies, who had a trach and a G-tube; however, from April 18, 2009 to January 12, 2010, at the direction of Ms. Yiapan, an unlicensed family member assumed Ms. Yiapan's identity and reported to the assignment in her place, and provided care to the patient and documented care on the nursing flowsheets.

4. Pursuant to a Consent Order of Suspension entered February 28, 2012 by the Maryland Board of Nursing, Ms. Yiapan's nursing assistant certificate was suspended for a minimum of one year, based on findings of fact indicated in the above-referenced Finding of Fact No. 3.

5. During the course of her employment as a certified nursing assistant with Family and Nursing Care, Silver Spring, Maryland, from May 21, 2005 to December 27, 2005, Ms. Yiapan

assumed the identity of several individuals certified as nursing assistants in the State of Maryland and obtained home health assignments and received payment using their names.

6. On August 26, 2014, in the District Court for Montgomery County, Maryland, Ms. Yiapan was convicted of driving while impaired by alcohol.

7. On August 7, 2015, Ms. Yiapan was diagnosed with bipolar disorder, most recent episode mixed, and anxiety disorder; however, as of April 13, 2016, she was not receiving any mental health treatment.

8. On the application for reinstatement of her Virginia nursing license, dated September 20, 2016:

a. Ms. Yiapan answered “no” to the questions regarding disciplinary action taken by any licensing authority in any jurisdiction and whether her practice had ever been the subject of an investigation by any licensing authority, when, in fact, her nursing assistant certificate had been investigated and suspended by the Maryland Board of Nursing.

b. Ms. Yiapan failed to disclose her conviction for driving while impaired by alcohol.

9. On the application for reinstatement dated December 22, 2015:

a. Ms. Yiapan failed to disclose her conviction for driving while impaired by alcohol.

b. When asked to list all employers since her license was suspended, Ms. Yiapan indicated that she had been unemployed; however, she had been working at LESHAN, L.L.C., since October 2015.

10. Ms. Yiapan denied the findings in Finding of Fact No. 5.

11. Ms. Yiapan admitted that she allowed an unlicensed family member to pose as Ms. Yiapan, go to a patient's home, and provide care over a period of more than six months.

12. Ms. Yiapan testified that she has not practiced as a practical nurse since January 2011. She told the Board that she has done nothing to stay current with the practice of nursing. She presented evidence of taking online continuing education courses in 2015.

CONCLUSIONS OF LAW

1. Finding of Fact No. 2 constitutes a violation of Virginia Code § 54.1-3007(4).

2. Finding of Fact No. 3 constitutes a violation of Virginia Code § 54.1-3007(2), (3), (5) and (8) and 18 VAC 90-20-300(A)(2)(d), (f), and (i) of the Regulations Governing the Practice of Nursing ("Regulations") (currently found at 18 VAC 90-19-230(A)(2)(d), (f) and (i) effective February 24, 2017).

3. Finding of Fact No. 4 constitutes a violation of Virginia Code § 54.1-3007(7).

4. Finding of Fact No. 5 constitutes a violation of Virginia Code § 54.1-3007(2), (3), (5) and (8) and 18 VAC 90-20-300(A)(2)(e) and (f) of the Regulations (currently found at 18 VAC 90-19-230(A)(2)(e) and (f) effective February 24, 2017).

5. Findings of Fact Nos. 6 and 7 constitute a violation of Virginia Code § 54.1-3007(6).

6. Findings of Fact Nos. 8 and 9 constitute a violation of Virginia Code § 54.1-3007(1) and 18 VAC 90-20-300(A)(1)(b) of the Regulations (currently found at 18 VAC 90-19-230(A)(1)(b) effective February 24, 2017).

7. Pursuant to Virginia Code § 54.1-2400.2(K), the Board considered whether to disclose or not disclose Ms. Yiapan's health records or health services.

ORDER

WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, ORDERS that the application of Hellen Yiapan for reinstatement of the license to practice practical nursing in the Commonwealth of Virginia is DENIED, due to a failure to obtain the affirmative vote for reinstatement of three-fourths of the members of the Board at the proceeding. Further, it is ORDERED that her license be CONTINUED on INDEFINITE SUSPENSION. Should she petition the Board for reinstatement of her license, an administrative proceeding will be convened to determine whether Ms. Yiapan is able to return to the safe and competent practice of practical nursing. Ms. Yiapan shall be responsible for any fees that may be required for the reinstatement and/or renewal of the license prior to issuance of the license to resume practice.

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 ON:

March 30th, 2017

Certified True Copy
By 

Virginia Board Of Nursing

NOTICE OF RIGHT TO APPEAL

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 days from the date you are served with this Order in which to appeal this decision by filing a Notice of Appeal with Jay Douglas, Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. The service date shall be defined as the date you actually received this decision or the date it was mailed to you, whichever occurred first. In the event this decision is served upon you by mail, three days are added to that period.