

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: MARY J. TOOLE, R.N.  
License Number: 0001-247274  
Case Number: 172446

RATIFICATION AND ORDER

On March 22, 2017, a panel of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mary J. Toole, R.N., was not present nor was she represented by legal counsel.


In consideration whereof, the Board of Nursing ACCEPTS the attached Recommended Findings of Fact and Conclusions of Law of the Agency Subordinate and ADOPTS the Recommended Order in its entirety.

Pursuant to Virginia Code § 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.

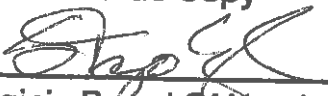
Pursuant to Virginia Code § 54.1-2400.2(K), the Board considered whether to disclose or not disclose Ms. Toole's health records or health services.

Since Ms. Toole failed to appear at the informal conference, this Order shall be considered final. Ms. Toole has the right to appeal this Order directly to the appropriate Virginia circuit court. As provided by Rule 2A:2 of the Supreme Court of Virginia, Ms. Toole has thirty days from the date of service (the date she actually received this decision or the date it was mailed to her, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Jay Douglas, Executive Director, Board of Nursing, at Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233. In the event that this decision is served by mail, three days are added to that period.

FOR THE BOARD

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

Certified True Copy

By   
Virginia Board Of Nursing

ENTERED AND MAILED ON:

March 29, 2017

**BEFORE THE VIRGINIA BOARD OF NURSING**

**IN RE:       MARY J. TOOLE, R.N.**  
**License Number: 0001-247274**  
**Case Number:       172446**

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**REPORT AND RECOMMENDATION OF AGENCY SUBORDINATE**

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**Jurisdiction and Procedural History**

Pursuant to Virginia Code §§ 2.2-4019 and 54.1-2400(10), Allison Gregory, M.S., R.N., F.N.P.-B.C., serving as Agency Subordinate of the Virginia Board of Nursing ("Board"), held an informal conference on January 12, 2017 in Henrico County, Virginia, to inquire into evidence that Mary J. Toole, R.N., may have violated certain laws and regulations governing the practice of professional nursing in the Commonwealth of Virginia.

Ms. Toole did not appear at this proceeding and was not represented by legal counsel.

Upon consideration of the evidence, the Agency Subordinate makes the following Findings of Fact and Conclusions of Law and recommends that the Board adopt the following Order.

**Notice**

By letter dated December 14, 2016, the Board sent a Notice of Informal Conference ("Notice") to Ms. Toole notifying her that an informal conference would be held on January 12, 2017. The Notice was sent by certified and first class mail to the legal address of record on file with the Board. Neither the receipt for the Notice sent via certified mail nor the Notice sent via certified mail was returned to the Board. The Notice sent via first-class mail was not returned to the Board office. Accordingly, the Agency Subordinate concluded that adequate notice was provided to Ms. Toole and the informal conference proceeded in her absence.

**Recommended Findings of Fact and Conclusions of Law**

1. Mary J. Toole, R.N., was issued License Number 0001-247274 to practice professional nursing on September 4, 2013, which is scheduled to expire on September 30, 2017. At all times relevant to the findings herein, said license was in full force and effect. Her primary state of residence is Virginia.

2. Ms. Toole violated Virginia Code § 54.1-3007(6) in that she is unsafe to practice professional nursing due to substance abuse and/or mental and/or physical illness, as evidenced by the following:

a. By her own admission, Ms. Toole is dependent on oxycodone (C-II), which she takes for treatment of back pain.

b. From December 3, 2015, through December 10, 2015, Ms. Toole was hospitalized pursuant to a temporary detention order at Riverside Behavioral Health Center following a suicide attempt, and her discharge diagnoses included major depression, recurrent, severe without psychosis, and cocaine use disorder, mild. Further, Ms. Toole was hospitalized in February 2016 at Riverside Behavioral Health Center secondary to depression and suicidal thoughts.

c. Ms. Toole's therapist, a licensed professional counselor, stated in an interview with the Department of Health Professions ("DHP") investigator on April 20, 2016, that he had concerns about her ability to safely practice due to grief and legal issues related to her arrest and then-pending trial for possession of methamphetamines in the Circuit Court of the City of Hampton, Virginia.

3. Ms. Toole violated Virginia Code § 54.1-3007(5) and (6) in that in January 2016, during the course of her employment with Medi Home Health & Hospice, Chesapeake, Virginia, Ms. Toole was observed to be falling asleep at work regularly. In addition, a for-cause employment drug

screen administered to her on January 21, 2016, was positive for cocaine. As a result, her employment was terminated.

4. Ms. Toole entered a plea of guilty to possession of methamphetamines on December 14, 2016, and she entered into a deferred disposition of the case, with the matter, continued by the Hampton Circuit Court until December 2017.

5. A review of Ms. Toole's Prescription Monitoring Report between March 2015 and March 2016 revealed that she obtained prescriptions from seven different prescribers for approximately 900 oxycodone (C-II) tablets, 660 Oxycontin (C-II) tablets, 750 clonazepam (C-IV) tablets, and 480 Adderall (dextroamphetamine/amphetamine, C-II), which she obtained from nine different pharmacies.

6. During her interview with the DHP investigator, Ms. Toole was provided with information about the Health Practitioners' Monitoring Program ("HPMP"). However, she did not enroll in HPMP before the informal conference. Further, she did not obtain a drug screen as she indicated she would to the investigator.

7. Ms. Toole's current employment status is unknown, but she was unemployed as of the March 28, 2016 interview with the Department of Health Professions investigator. Previous employments with Riverside Regional Medical Center and Sentara Norfolk General Hospital in 2013 and 2015 were terminated. The status of any current treatment for Ms. Toole's mental health issues and/or substance abuse issues is also unknown. Ms. Toole was previously enrolled in a methadone program.

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

#### **Recommended Order**

Based on the foregoing Findings of Fact and Conclusions of Law, the Agency Subordinate recommends that the Board issue an Order as follows:

1. The license issued to Mary J. Toole, R.N., to practice professional nursing in the Commonwealth of Virginia is INDEFINITELY SUSPENDED.
2. The license of Mary J. Toole, R.N., will be recorded as SUSPENDED.
3. This suspension applies to any multistate privilege to practice professional nursing.
4. Should Mary J. Toole, R.N., seek reinstatement of her license, an administrative proceeding shall be convened to consider such application. At such time, the burden shall be on Ms. Toole to demonstrate that she is safe and competent to return to the practice of professional nursing. Ms. Toole 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.

Reviewed and approved on February 26, 2017  
By Allison Gregory, M.S., R.N., F.N.P.-B.C.  
Agency Subordinate

Certified True Copy

By   
Virginia Board Of Nursing