

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: PENNY SAUNDERS, R.N. REINSTATEMENT APPLICANT
LICENSE NO.: 0001-174296**

ORDER

Pursuant to §§ 2.2-4020, 54.1-110 and 54.1-2400(11) of the Code of Virginia (1950), as amended ("Code"), a formal administrative hearing was held before a panel of the Board of Nursing ("Board") on March 22, 2012, in Henrico County, Virginia, to receive and act upon Penny Saunders' application for reinstatement of her license to practice professional nursing in Virginia, and to inquire into evidence that Ms. Saunders may have violated certain laws and regulations governing nursing practice in Virginia. The case was presented by Cynthia E. Gaines, Adjudication Specialist, Administrative Proceedings Division. Howard M. Casway, Senior Assistant Attorney General, was present as legal counsel for the Board. Ms. Saunders was present and was not represented by legal counsel. The proceedings were recorded by a certified court reporter.

Upon consideration of the evidence presented, the Board adopted the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Penny Saunders, R.N., was issued License No. 0001-174296 to practice professional nursing in the Commonwealth of Virginia on June 27, 2001. Said license was mandatorily suspended pursuant to § 54.1-2409 of the Code by Order of the Department of Health Professions entered on July 21, 2011. Ms. Saunders' primary state of residence is Virginia.

2. Ms. Saunders submitted an application for reinstatement of her license to practice professional nursing which was received by the Board on December 28, 2011.

3. On June 2, 2011, the North Carolina Board of Nursing revoked Ms. Saunders' privilege to practice professional nursing in North Carolina. This action was a result of Ms. Saunders testing positive for Ativan (C-IV), for which she did not have a valid prescription, while on duty at Roxboro Nursing Center, Roxboro, North Carolina, on November 16, 2010.

4. On June 29, 2011, during the course of her employment with Berry Hill Health and Rehabilitation Center, South Boston, Virginia, by her own admission, Ms. Saunders removed 29 tablets of Ambien (C-IV) for her personal and unauthorized use.

5. Ms. Saunders is unsafe to practice professional nursing due to her admitted abuse of narcotic medications.

6. On her application for reinstatement of her license to practice professional nursing received by the Board on December 28, 2011, Ms. Saunders answered "NO" to the question "Do you have a mental, physical, or chemical dependency condition which could interfere with your current ability to practice nursing?" when, in fact, Ms. Saunders admitted her abuse of narcotic medications as evidenced above, and is currently receiving treatment for her addiction.

7. Ms. Saunders testified that she began out-patient treatment in August 2011, with the South Boston Community Services Board, South Boston, Virginia. Initially, Ms. Saunders was seen weekly and now is seen bi-weekly. Ms. Saunders attends Narcotics Anonymous and Caduceus meetings and has entered into a Recovery Monitoring Contract with the Virginia Health Practitioners' Monitoring Program ("HPMP"), and is to date reported to be in compliance with her Recovery Monitoring contract. Ms. Saunders submitted numerous letters and several witnesses appeared in support of her reinstatement and return to practice.

CONCLUSIONS OF LAW

The Board concludes that:

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

2. Finding of Fact No. 4 constitutes a violation of § 54.1-3007(2), (5) and (8) of the Code and 18 VAC 90-20-300(A)(2)(c) of the Regulations Governing the Practice of Nursing (“Regulations”).

3. Finding of Fact No. 5 constitutes a violation of § 54.1-3007(6) of the Code.

4. Finding of Fact No. 6 constitutes a violation of § 54.1-3007(1) of the Code and 18 VAC 90-20-300(A)(1)(b) of the Regulations.

ORDER

WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS as follows:

1. The application of Penny Saunders for reinstatement of her license to practice professional nursing in the Commonwealth of Virginia is hereby DENIED.

2. License No. 0001-174296 issued to Ms. Saunders to practice professional nursing in the Commonwealth of Virginia, is hereby CONTINUED on INDEFINITE SUSPENSION. Said suspension shall be STAYED upon the condition that she remains compliant with the terms of the HPMP and the following terms and conditions:

a. Ms. Saunders shall comply with all terms and conditions for the period specified by the HPMP.

b. Any violation of the terms and conditions stated in this Order shall be reason for summarily rescinding the stay of indefinite suspension of the license of Ms. Saunders, and an administrative proceeding shall be held to decide whether her license shall be revoked. The stay of indefinite suspension may be summarily rescinded at such time the Board is notified that:

i. Ms. Saunders is not in compliance with the terms and conditions specified by the HPMP, or has been terminated from participation in the HPMP, or

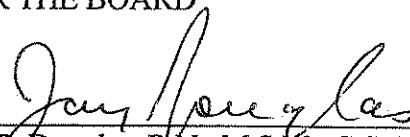
ii. There is a pending investigation or unresolved allegation involving a violation of law, regulation or any term or condition of this Order.

3. Upon receipt of evidence of Ms. Saunders' participation in and successful completion of the terms specified by the HPMP, the Committee, at its discretion, may waive Ms. Saunders' appearance before the Committee, and conduct an administrative review of this matter, at which time she may be issued an unrestricted license.

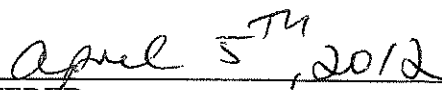
4. This Order shall be applicable to Ms. Saunders' multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. It is further ordered that for the duration of this Order, Ms. Saunders may not work outside of the Commonwealth of Virginia pursuant to a multistate licensure privilege without the written permission of the Virginia Board of Nursing and the Board of Nursing in the party state where she wishes to work.

Pursuant to §§ 2.2-4023 and 54.1-2400.2 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.

FOR THE BOARD

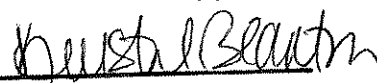


Jay P. Douglas, R.N., M.S.M., C.S.A.C.
Executive Director
Virginia Board of Nursing



ENTERED

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 P. Douglas, R.N., M.S.M., C.S.A.C., 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.