

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE: DELSA SALLY, C.N.A. APPLICANT, R.M.A. APPLICANT**

**ORDER**

In accordance with §§ 2.2-4019, 2.2-4021, and 54.1-2400(7) of the Code of Virginia (1950), as amended ("Code"), an informal conference was conducted by a committee of two members of the Board of Nursing ("Board") on December 6, 2011, in Henrico County, Virginia, to consider the applications of Delsa Sally for certification by examination as nurse aide and registration by examination as a medication aide and to inquire into evidence that she may have violated certain laws governing nurse aide and medication aide practice in Virginia. Ms. Sally was present and was not represented by legal counsel. The Informal Conference Committee ("Committee") submitted a Recommended Decision for consideration.

On January 24, 2012 the Board met to receive and act upon the Recommended Decision of the Committee. Ms. Sally was not present and was not represented by legal counsel.

Based upon its review of the Recommended Decision of the Committee, the Board makes the following Findings of Fact and Conclusions of Law and issues the following Order.

**FINDINGS OF FACT**

1. Delsa Sally submitted applications for certification by examination as a nurse aide on July 29, 2011, and registration by examination as a medication aide on July 12, 2011.
2. By letter dated October 27, 2011, the Board sent a Notice of Informal Conference to Ms. Sally notifying her that an informal conference would be held on December 6, 2011. The notice was sent by certified and first class mail to 4121 North Avenue, Richmond, Virginia 23222, the address of record on file with the Board, and to 4641 Southwood Parkway, Apt. B, Richmond, Virginia 23224, a secondary address.

3. Ms. Sally has been convicted of the following felony offenses and misdemeanor crimes involving moral turpitude:

a. On April 23, 1993, in the Circuit Court for the City of Richmond, Virginia, she was convicted of grand larceny of welfare benefits and of misdemeanor larceny.

b. On June 7, 1993, in the Circuit Court for the City of Richmond, Virginia, she was convicted of felony possession of cocaine.

c. On October 19, 2004, in the General District Court for the City of Richmond, Virginia, she was convicted of two misdemeanor counts of theft of utility service.

d. On April 29, 2009, in the Circuit Court for Henrico County, Virginia, she was convicted of felony driving after having been declared a habitual offender.

4. Ms. Sally has an admitted longstanding history of drug abuse.

5. At the informal conference, Ms. Sally stated that after her arrest in 2009 for driving after having been declared a habitual offender, she spent one year in jail. After she was released, in August, 2010, she decided to enter the Henrico County Drug Court because she needed help with her addiction. She stated that she attends NA and/or AA meetings and has a sponsor, and that she is working on Step 1. She stated that her sobriety date was June 16, 2010.

6. Two representatives of the Drug Court, Ms. Sally's probation officer and her clinician, as well as her sponsor, appeared at the informal conference on her behalf. They confirmed that Ms. Sally is required to call in for drug testing three times per week and that so far, all drug screens have been negative. They anticipate that she will be released from Drug Court in the Spring of 2012.

7. Ms. Sally stated that she currently works in a group home as a direct care worker and is surrounded by narcotics, and that she has not diverted any narcotics.

**CONCLUSIONS OF LAW**

The Board concludes that:

1. Finding of Fact #3 constitutes a violation of § 54.1-3007(4) of the Code of Virginia (1950), as amended (“Code”).
2. Finding of Fact #4 constitutes a violation of § 54.1-3007(6) of the Code.
3. Ms. Sally otherwise meets the qualifications of § 54.1-3024 of the Code for certification as a nurse aide.
4. Ms. Sally does not meet the qualifications of § 54.1-3042 for registration as a medication aide.

**ORDER**

WHEREFORE, it is hereby ORDERED as follows:

1. The application of Delsa Sally for registration by examination as a medication aide is DENIED.
2. The application of Delsa Sally for certification by examination as a nurse aide is APPROVED. Upon successful completion of the NNAAP examination, Ms. Sally shall be issued a certificate to practice as a nurse aide in the Commonwealth on INDEFINITE PROBATION for not less than two years of active nurse aide practice under the following terms and conditions:
  - a. The period of probation shall begin on the date that Ms. Sally is issued a nurse aide certificate and shall continue indefinitely. After two years of active employment as a certified nurse aide, Ms. Sally may request that the Board end this probation.
  - b. Ms. Sally shall inform the Board within ten days of the date she begins nurse aide practice, or changes employment, or if any interruption in nurse aide practice occurs. Additionally, Ms. Sally shall provide the name and address of each employer to the Board.

c. Ms. Sally shall inform her current nurse aide employer and each future nurse aide employer that the board has placed her on probation and shall provide each employer with a complete copy of this Order. If Ms. Sally is employed through a staffing agency, she shall inform her supervisor in each facility where assigned that she is on probation.

d. Performance Evaluations shall be provided, at the direction of Ms. Sally, by all nurse aide employer(s), as provided by the Compliance Division. The first report must be received in the Board office no later than 60 days from the date Ms. Sally is issued a nurse aide certificate. Subsequent reports must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends.

e. Ms. Sally shall not use alcohol or any other mood altering chemical, except as prescribed by a health care practitioner with whom she has a bona fide practitioner/patient relationship and for accepted medicinal or therapeutic purposes. Should she be prescribed any Schedule II-V controlled medication, a written report from the prescribing practitioner shall be provided to the Board within ten days of the date the medication is prescribed.

f. Ms. Sally shall attend Alcoholics Anonymous/Narcotics Anonymous/Cocaine Anonymous/Caduceus recovery support groups or other groups acceptable to the Board two times per week and shall have written evidence of attendance by a sponsor or a contact person sent to the Board within 60 days of each meeting.

g. Ms. Sally shall request her court-appointed parole/probation officer to provide the Board with a written report describing how she is meeting the conditions of her parole/probation within 60 days from the date she is issued a nurse aide certificate.

h. Ms. Sally shall provide all current and future treating practitioners with a complete copy of this Order and shall execute an Authorization for Disclosure of Information form providing for unrestricted

communication between the Board and any court-appointed probation or parole officers and any consultants designated by the Board.

i. Ms. Sally shall submit quarterly "Self-Reports" which include a current address, telephone number, and verification of all current employment. These reports shall also include any changes in employment status. The first report must be received in the Board office no later than 60 days from the date Ms. Sally is issued a nurse aide certificate. Subsequent reports must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends.

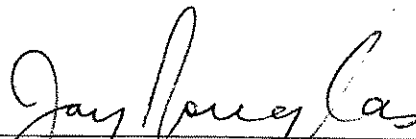
j. Ms. Sally shall conduct herself as a certified nurse aide in compliance with the requirements of Title 54.1, Chapter 30 of the Code and the Regulations Governing Certified Nurse Aides.

k. Any violation of the terms and conditions of this Order, or failure to comply with all terms of this Order within five years of the date of entry of the Order, shall be reason for suspending or revoking the certificate of Ms. Sally and an administrative proceeding may be held to determine whether her certificate shall be suspended or revoked.

Pursuant to § 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 a public record, and shall be made available for public inspection and copying upon request.

Pursuant to Section 54.1-2400(10) of the Code, Ms. Sally may, not later than 5:00 p.m., on **March 5, 2012**, notify 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, in writing that she desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

FOR THE BOARD



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

Entered: February 1<sup>ST</sup>, 2012

This Order shall become final on March 5, 2012; unless a request for a formal administrative hearing is received as described above.