

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: THESHEMA C. DAVIS, L.P.N. REINSTATEMENT APPLICANT
 LICENSE NO.: 0002-063622**

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 January 25, 2012, in Henrico County, Virginia, to receive and act upon Theshema C. Davis' application for reinstatement of her license to practice as a practical nurse in Virginia, which was mandatorily suspended by an Order of the Virginia Department of Health Professions entered July 19, 2011, and to inquire into evidence that Ms. Davis may have violated certain laws and regulations governing nursing practice in Virginia. The case was presented by Amanda E. M. Blount, Adjudication Specialist, Administrative Proceedings Division. Howard M. Casway, Senior Assistant Attorney General, was present as legal counsel for the Board. Ms. Davis 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. Theshema C. Davis was issued License No. 0002-063622 to practice as a practical nurse in the Commonwealth of Virginia on May 9, 2002. Said license was suspended by an Order of the Virginia Department of Health Professions entered on July 19, 2011, pursuant to § 54.1-2409 of the Code, upon Ms. Davis' conviction of two felonies. Her primary state of residence is Virginia. Ms. Davis was also issued Certificate No. 1401-086482 to practice as a nurse aide in the Commonwealth of Virginia on April 21, 2001. Ms. Davis' certification expired on April 30, 2003.

2. Ms. Davis submitted an application for reinstatement of her license to the Board, which was received on November 4, 2011.
3. On April 26, 2010, Ms. Davis was convicted of two felony counts of child neglect in the Circuit Court of the City of Virginia Beach, Virginia. She was sentenced to four years of incarceration with all time suspended with conditions, including good behavior for four years, supervised probation, and payment of court costs.
4. Ms. Davis acknowledged a history of alcohol abuse and has received diagnoses of alcohol dependence, major depressive disorder and post traumatic stress disorder. She indicated that these issues were precipitated by the death of her mother in 2001, and other marital and family issues. She reported her sobriety date as November 26, 2009. She also stated that she has received outpatient treatment and individual therapy, and that she attends AA meetings once a week. Additionally, Ms. Davis entered into a participation contract with the Health Practitioners' Monitoring Program on December 7, 2011.
5. On February 5, 2010, Ms. Davis was convicted of driving under the influence in the City of Virginia Beach, Virginia General District Court.
6. On June 22, 2005, Ms. Davis was convicted of driving under the influence in the City of Norfolk, Virginia General District Court.
7. On her application for reinstatement of her license to practice practical nursing, Ms. Davis answered "no" to the question of whether she has a mental, physical or chemical dependency condition which could interfere with her current ability to practice nursing, when, in fact, she suffers from substance abuse and mental health issues as referenced above. Ms. Davis explained that she answered "no" to the question because she is following her recovery, is sober and does not believe her chemical dependency or mental health issues would impact her future practice.
8. Ms. Davis testified as to her recovery program, including participation in her church's Woman's Discipleship Program. She attends AA, but has no sponsor and has recently begun attendance at

Caduceus meetings. She was pursuing courses in addiction counseling but had to stop due to lack of finances.

CONCLUSIONS OF LAW

The Board concludes that:

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(4) of the Code.
2. Findings of Fact Nos. 4, 5 and 6 constitute violation of § 54.1-3007(6) of the Code.
3. Finding of Fact No. 7 constitutes a violation of § 54.1-3007(1) of the Code and 18 VAC 90-20-300(A)(1)(b) of the Regulations Governing the Practice of Nursing.

ORDER

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

1. The application for reinstatement of License No. 0002-063622 issued to Theshema C. Davis to practice as a practical nurse in the Commonwealth of Virginia, be and hereby is DENIED, due to a failure to obtain the affirmative vote for reinstatement of three-fourths of the members of the Board at the hearing. Further, it is hereby ORDERED that the license of Ms. Davis be CONTINUED on INDEFINITE SUSPENSION.
2. The license will be recorded as suspended and no longer current.
3. At such time as Ms. Davis shall petition the Board for reinstatement of her license, an administrative proceeding will be convened to determine whether she is capable of resuming the safe and competent practice of practical nursing. Ms. Davis shall be responsible for any fees that may be required for the reinstatement and renewal of the license prior to issuance of the license to resume practice.
4. This suspension applies to any multistate privilege to practice practical nursing.
5. This suspension shall be STAYED upon the condition that Ms. Davis remains compliant with the terms of the HPMP and the following terms and conditions:

a. Ms. Davis 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, 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. Davis 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.

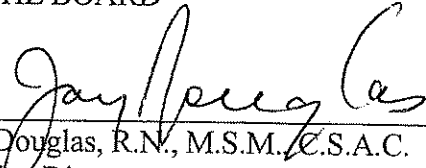
6. Upon receipt of evidence of Ms. Davis' participation in and successful completion of the terms specified by the HPMP, the Committee, at its discretion, may waive Ms. Davis' appearance before the Committee, and conduct an administrative review of this matter, at which time she may be issued an unrestricted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

7. This Order shall be applicable to Ms. Davis' multistate licensure privileges, if any, to practice practical nursing in the Commonwealth of Virginia. It is further ordered that for the duration of this Order, Ms. Davis 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.

8. Ms. Davis shall maintain a course of conduct in her capacity as a practical nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

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

February 10th, 2012

ENTERED

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.