

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: JENNIFER L. PENCILLE, R.N.
License No.: 0001-224403

AMENDED 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 23, 2012, in Henrico County, Virginia, to receive and act upon Jennifer L. Pencille's application for reinstatement of her license to practice professional nursing in Virginia and to inquire into evidence that Ms. Pencille may have violated certain laws and regulations governing nursing practice in Virginia. The case was presented by Cynthia E. Gaines, Adjudication Specialist, Administrative Proceedings. Howard M. Casway, Senior Assistant Attorney General, was present as legal counsel for the Board. Ms. Pencille 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. Jennifer L. Pencille, R.N., was issued License No. 0001-224403 to practice professional nursing in the Commonwealth of Virginia on May 27, 2010. Said license was mandatorily suspended pursuant to § 54.1-2409 of the Code by Order of the Department of Health Professions entered on June 30, 2011, based upon her conviction of felony possession of a controlled drug in the Circuit Court of Fairfax County, Virginia. Ms. Pencille's primary state of residence is Virginia.
2. Ms. Pencille submitted an application for reinstatement of her license to practice professional nursing, which was received by the Board on November 15, 2011.
3. On February 23, 2011, Ms. Pencille was convicted of misdemeanor driving while intoxicated first offense, with a child, in the Culpeper County, Virginia, General District Court. On April 21, 2011, Ms.

Pencille was found guilty and convicted of felony possession of a controlled drug in the Circuit Court of Fairfax County, Virginia. On June 23, 2011, Ms. Pencille was convicted of felony hit and run in the Circuit Court of Stafford County, Virginia. On October 31, 2011, Ms. Pencille pled guilty to and was convicted of felony failure to stop after an accident in the Orange County, Virginia, Circuit Court. Ms. Pencille is currently on court ordered probation until October 31, 2013, in Orange County and June 22, 2016, in Culpeper County.

4. In May, 2010, Ms. Pencille entered into a Consent Order with the Board granting her a license by endorsement to practice professional nursing contingent upon her continued compliance with the Virginia Health Practitioners' Intervention Program ("HPMP").

5. Ms. Pencille is currently enrolled and compliant with the HPMP.

6. Ms. Pencille testified that her sobriety date is December 6, 2010. She reports a family history of alcoholism.

7. Ms. Pencille is currently employed as a waitress where she serves alcohol, but her employers are aware of her recovery.

8. Ms. Pencille has not worked as a nurse since December 3, 2010, but she submitted proof of completion of 13 Continuing Education Units and testified that she reads nursing journals.

9. Ms. Pencille's recovery program includes attending five to seven Alcoholics Anonymous meetings per week, and she attends a relapse prevention program at Harrison House once per week. Ms. Pencille's driver's license was reinstated with restrictions.

CONCLUSIONS OF LAW

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(4) and (6) of the Code.
2. Ms. Pencille is properly enrolled in the Health Practitioners' Monitoring Program ("HPMP").
3. Ms. Pencille has demonstrated satisfactory evidence that she is prepared to resume practice in a safe and competent manner.

ORDER

WHEREFORE, the Virginia Board of Nursing, by affirmative vote of at least three-fourths of the members of the Board at the hearing, effective upon entry of this Order, hereby ORDERS that License No. 0001-224403 issued to Jennifer L. Pencille to practice professional nursing in the Commonwealth of Virginia, be and hereby is REINSTATED subject to the following terms and conditions::

1. Ms. Pencille's license to practice professional nursing in the Commonwealth of Virginia is hereby INDEFINITELY SUSPENDED. Said suspension shall be STAYED upon the condition that she remains compliant with the terms of a Recovery Monitoring Contract with the HPMP or another state alternative monitoring program and the following terms and conditions:

a. Ms. Pencille shall comply with all terms and conditions for the period specified by the HPMP or another state monitoring program.

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. Pencille, 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. Pencille is not in compliance with the terms and conditions specified by the HPMP or other state monitoring program or has been terminated from participation in the HPMP or other state monitoring program, or

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

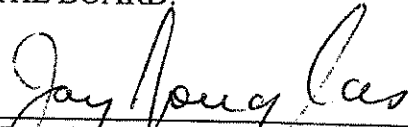
2. Upon receipt of evidence of Ms. Pencille's participation in and successful completion of the terms specified by the HPMP or other state monitoring program, the Board, at its discretion, may waive Ms. Pencille's appearance before the Board, and conduct an administrative review of this matter, at which time she may be issued an unrestricted license.

3. This Order shall be applicable to Ms. Pencille's 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. Pencille 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.

4. Ms. Pencille shall maintain a course of conduct in her capacity as a professional 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:

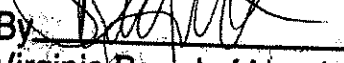


Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E.
Executive Director
Virginia Board of Nursing

October 28th, 2013

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, M.S.M., R.N., C.S.A.C., F.R.E., 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.