

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: LORI ANN JENKINS MILLER, R.N.
License Number: 0001-150855
Case Number: 172154

ORDER

JURISDICTION AND PROCEDURAL HISTORY

Pursuant to Virginia Code §§ 2.2-4020, 2.2-4024(F), and 54.1-2400(11), a panel of the Virginia Board of Nursing (“Board”) held a formal administrative hearing on November 17, 2016, in Henrico County, Virginia, to inquire into evidence that Lori Ann Jenkins Miller, R.N., may have violated certain terms and conditions imposed on her, as set forth in the Order of the Board entered on October 22, 2012

Lori Ann Jenkins Miller, R.N., appeared at this proceeding and was not represented by legal counsel.

NOTICE

By letter dated July 1, 2016, the Board sent a Notice of Formal Hearing (“Notice”) to Ms. Miller notifying her that a formal administrative hearing would be held on July 18, 2016. The Notice was sent by certified and first class mail to the legal address of record on file with the Board. On July 5, 2016, Ms. Miller requested and was granted a continuance, and the matter was rescheduled for September 19, 2016. On August 24, 2016, an amended Notice was sent to Ms. Miller. On September 16, 2016, an attorney hired by Ms. Miller requested and was granted a continuance to prepare for the formal hearing. The matter was rescheduled for November 17, 2016. An amended Notice dated October 27, 2016, was sent to Ms. Miller by certified and first class mail.

Upon consideration of the evidence, the Board adopts the following Findings of Fact and Conclusions of Law and issues the Order contained herein.

FINDINGS OF FACT

1. On October 1, 1996, the Board issued License Number 0001-150855 to Lori Ann Jenkins Miller, R.N. to practice professional nursing in the Commonwealth of Virginia. Said license is scheduled to expire on April 30, 2018. At all times relevant hereto, said license was in full force and effect. Her primary state of residence is Virginia.
2. By Order of the Board entered July 19, 2005, the license of Ms. Miller was indefinitely suspended following her dismissal from the Health Practitioners' Monitoring Program [*formerly the Health Practitioners' Intervention Program*] on December 10, 2004, and for her admitted substance abuse. By Board's Order entered December 15, 2006, Ms. Miller's application for reinstatement of her license was denied. Ms. Miller had been convicted of felony obtaining drugs by fraud on January 6, 2006. By Board's Order entered October 22, 2012 ("Board's Order"), Ms. Miller's license to practice professional nursing was reinstated and she was placed on indefinite probation for not less than two years of active nursing practice, subject to terms and conditions.
3. Term Number 4 of the Board's Order required Ms. Miller to direct all nursing employers to provide the Compliance Division with quarterly performance evaluations by the last day of March, June, September and December. The evaluations due September 2013, December 2013 and March 2014, were not received until August 8, 2014. The evaluations due June 30, 2014, and December 31, 2015, were not submitted. The evaluations due December 31, 2014, and September 30, 2015, were submitted late.
4. Term Number 8 of the Board's Order required that Ms. Miller not use any alcohol or any 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 and further required that should she be prescribed any Scheduled II-V controlled medications, a written report from the practitioner was to be provided to the Board within ten days of the date the medication was prescribed. A Prescription Monitoring Profile revealed that between November 3, 2012, and February 8, 2016, Ms. Miller received 149 prescriptions for Schedule II through IV controlled medications written by 25 different physicians, but the Board office received prescription reports for only four of those medications.

5. Term Number 9 of the Board's Order required Ms. Miller to attend Alcoholics Anonymous, Narcotics Anonymous or Caduceus recovery support groups acceptable to the Board one or more times per week. Ms. Miller did not attend any group meetings during the months of January 2014 or March 2015.

6. Term Number 12 of the Board's Order required that Ms. Miller provide all current and future treating practitioners with a complete copy of the Order and execute an authorization for disclosure of information form providing unrestricted communication between the Board and any court-appointed probation or parole officers and any consultants designated by the Board. Ms. Miller failed to provide complete copies of the Board's Order to practitioners who were not her primary care providers.

7. Term Number 13 of the Board's Order required Ms. Miller to submit quarterly self-reports to the Board office by the last day of the months of March, June, September, and December. The report due June 30, 2014, was not received until July 7, 2014, the report due September 30, 2014, was not received until November 7, 2014, the report due March 31, 2015, was not received until April 6, 2015, the report due June 30, 2015, was not received until July 7, 2015, the report due September

30, 2015, was not received until October 8, 2015, and the report due December 31, 2015, was not received until February 2, 2016.

8. Ms. Miller testified that she did not know she was out of compliance with her probation. The Board's compliance manager testified that she went over the terms of the Order in 2012. Ms. Miller testified that she was not informed of her noncompliance until 2016.

9. Throughout the hearing, Ms. Miller told the Board that she believed it was the compliance manager's role to help Ms. Miller manage compliance with the probationary terms. However, when she was asked by the Board if she understood that the responsibility of maintaining compliance with a Board Order rested with her, Ms. Miller said she was not blaming the compliance manager.

10. Ms. Miller testified that if she had known she was out of compliance with probation, she would have rectified the situation. However, evidence revealed that even after being notified of her noncompliance in February 2016, she remained noncompliant with the terms of her probation.

11. Ms. Miller asked the Board for an opportunity to demonstrate her ability to be compliant.

CONCLUSIONS OF LAW

1. Finding of Fact No. 3 constitutes a violation of Term Number 4 of the Board's Order.
2. Finding of Fact No. 4 constitutes a violation of Term Number 8 of the Board's Order.
3. Finding of Fact No. 5 constitutes a violation of Term Number 9 of the Board's Order.
4. Finding of Fact No. 6 constitutes a violation of Term Number 12 of the Board's Order.
5. Finding of Fact No. 7 constitutes a violation of Term Number 13 of the Board's Order.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Nursing hereby ORDERS as follows:

1. Lori Ann Jenkins Miller, R.N., is REPRIMANDED.
2. Lori Ann Jenkins Miller, R.N., is CONTINUED on INDEFINITE PROBATION for a period of not less than one year subject to the following terms and conditions:
 - a. The period of probation shall begin on the date that this Order is entered and shall end at such time as Ms. Miller has completed one year of active practice in employment as a professional nurse. The license of Ms. Miller shall be reinstated without restriction at the completion of the probationary period without an administrative proceeding unless there is a pending investigation or unresolved allegation involving a violation of law, regulation or any term or condition of probation. In that event, the period of probation shall be continued indefinitely or until such time as the Board makes a case decision in accordance with the Administrative Process Act, Virginia Code § 2.2-4000 et seq. and Virginia Code § 54.1-2400.9 et seq.
 - b. Ms. Miller shall inform the Board in writing within ten days of the date any practice employment begins, changes, is interrupted, or ends. Additionally, Ms. Miller shall provide a contact name, address, and phone number for each practice employer to the Board.
 - c. Ms. Miller shall inform all current and future practice employers that the Board has placed her on probation and Ms. Miller shall provide each practice employer with a complete copy of this Order. If Ms. Miller is employed through a staffing agency, she shall inform her supervisor in each facility where assigned that she on probation.
 - d. Performance Evaluations shall be provided, at the direction of Ms. Miller, by all nursing 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 this Order is entered. 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. Miller 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. Miller shall attend Alcoholics Anonymous /Narcotics Anonymous/ Caduceus recovery support groups /or other groups acceptable to the Board one or more times per week and shall have written evidence of attendance by a sponsor or contact person sent to the Board within ten days of each meeting.

g. Ms. Miller 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.

h. Ms. Miller shall submit “Self-Reports” which include a current address, telephone number, and verification of any and all current practice employment. These reports shall also include any changes in practice employment status. Self -Reports must be submitted whether Ms. Miller has current practice employment or not. The first report must be received in the Board office no9 later than 60 days from the date this Order is entered. 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.


i. Ms. Miller shall conduct herself as a professional nurse in compliance with the requirements of Title 54.1, Chapter 30 of the Code of Virginia and the Board of Nursing Regulations.

j. Any violation of the stated terms and conditions contained in 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 license of Ms. Miller, and an administrative proceeding may be held to determine whether her license shall be suspended or revoked.

k. This Order is applicable to Ms. Miller's multistate nursing licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. For the duration of this Order, Ms. Miller shall not practice outside of the Commonwealth of Virginia pursuant to a multistate licensure privilege without the express written permission of both the Virginia Board of Nursing and the Board of Nursing in the party state where she wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

Pursuant to Virginia Code §§ 2.2-4023 and 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.


FOR THE BOARD



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

ENTERED AND MAILED ON:

December 9th, 2016

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 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.