

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: JUSTIN EARL NEWBERRY, R.N.
License Number: 0001-260808
Case Number: 173018

RATIFICATION AND ORDER

On November 16, 2016, a panel of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Justin Earl Newberry, R.N., was not present nor was he represented by legal counsel.

In consideration whereof, the Board of Nursing ACCEPTS the attached Recommended Findings of Fact and Conclusions of Law of the Agency Subordinate and ADOPTS the Recommended Order in its entirety.

Pursuant to Virginia Code § 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.

Pursuant to Virginia Code § 54.1-2400(10), Mr. Newberry may, not later than 5:00 p.m., on January 8, 2017, notify 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, in writing that he 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

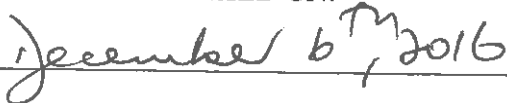


Jay Douglas, M.S.M., R.N., C.S.A.C., F.R.E.
Executive Director
Virginia Board of Nursing

Certified True Copy

By 
Virginia Board of Nursing

ENTERED AND MAILED ON:



This Order shall become final on January 8, 2017, unless a request for a formal administrative hearing is received as described above.

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REPORT AND RECOMMENDATION OF AGENCY SUBORDINATE

Jurisdiction and Procedural History

Pursuant to Virginia Code §§ 2.2-4019 and 54.1-2400(10), Jane Elliott, R.N., Ph.D., serving as Agency Subordinate of the Virginia Board of Nursing (“Board”), held an informal conference on September 7, 2016 in Henrico County, Virginia, to inquire into evidence that Justin Earl Newberry, R.N., may have violated certain laws and regulations governing the practice of professional nursing in the Commonwealth of Virginia.

Mr. Newberry appeared at this proceeding and was not represented by legal counsel.

Upon consideration of the evidence, the Agency Subordinate makes the following Findings of Fact and Conclusions of Law and recommends that the Board adopt the following Order.

Notice

By letter dated July 28, 2016, the Board sent a Notice of Informal Conference (“Notice”) to Mr. Newberry notifying him that an informal conference would be held on September 7, 2016. The Notice was sent by certified and first class mail to the legal address of record on file with the Board.

Recommended Findings of Fact and Conclusions of Law

1. Justin Earl Newberry, R.N., was issued License Number 0001-260808 to practice professional nursing on August 18, 2015, which is scheduled to expire on December 31, 2017. At all times relevant to the findings herein, said license was in full force and effect. His primary state of residence is Virginia.

2. Mr. Newberry violated Virginia Code § 54.1-3007(5) and (6) in that during the course of his employment with Clinch Valley Medical Center, Richlands, Virginia, on multiple occasions between March 24 to 31, 2016, Mr. Newberry was impaired while on duty in the operating room (“OR”), as evidenced by the following:

a. On March 24, 2016, Mr. Newberry was observed to be sweating profusely and left work early.

b. On March 30, 2016, Mr. Newberry was observed moving very slowly and shuffling instruments while assisting during a surgical procedure.

c. On March 31, 2016, Mr. Newberry was observed falling asleep while in the OR, was slow, and had difficulty performing his duties. Mr. Newberry appeared to be unable to stand without staggering and was assisted from the OR to the lounge. While in the lounge, he was observed sleeping while holding a cup of coffee that was spilling on the floor. After being awakened, Mr. Newberry spoke very slowly, his hands were fidgety, and he repeatedly removed and replaced his hat. Mr. Newberry also stated that he felt confused and that his mind was foggy.

3. Mr. Newberry’s employment was terminated on March 31, 2016, for refusing to submit to a drug screen.

4. Mr. Newberry violated Virginia Code § 54.1-3007(6) in that he is unsafe to practice professional nursing due to admitted substance abuse and depression. At the informal conference, Mr. Newberry reported that he had begun seeing a counselor approximately four weeks ago at Cumberland Mountain Services, Tazewell, Virginia.

5. At the informal conference, Mr. Newberry said that he had “self-destructive” behavior and that he hates himself. He also expressed having suicidal and homicidal thoughts. Mr. Newberry was accompanied by his grandmother, who is a professional nurse. She was very supportive and

recognized that Mr. Newberry needs mental health treatment and has spoken to him about obtaining inpatient treatment which they intended to pursue following the informal conference.

Recommended Order

Based on the foregoing Findings of Fact and Conclusions of Law, the Agency Subordinate recommends that the Board issue an Order as follows:

1. The license issued to Justin Earl Newberry to practice professional nursing in the Commonwealth of Virginia is INDEFINITELY SUSPENDED.
2. The license of Justin Earl Newberry will be recorded as SUSPENDED.
3. This suspension applies to any multistate privilege to practice professional nursing.
4. Should Justin Earl Newberry seek reinstatement of his license, an administrative proceeding shall be convened to consider such application. At such time, the burden shall be on Justin Earl Newberry to demonstrate that he is safe and competent to return to the practice of professional nursing. Justin Earl Newberry shall be responsible for any fees that may be required for the reinstatement and/or renewal of the license prior to issuance of the license to resume practice.

Reviewed and approved on September 28, 2016
By Jane Elliott, R.N., Ph.D.
Agency Subordinate

Certified True Copy

By 
Virginia Board of Nursing