

VIRGINIA:

**BEFORE THE COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE**

**IN RE: PATRICIA A. HOLBERT, R.N., L.N.P.**

**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 Committee of the Joint Boards of Nursing and Medicine ("Committee of the Joint Boards" or "Joint Boards") on February 18, 2009, in Henrico County, Virginia, to inquire into evidence that Patricia A. Holbert, R.N., L.N.P., may have violated certain laws and regulations governing professional nursing and nurse practitioner practice in Virginia. The case was presented by Wayne T. Halbleib, Assistant Attorney General. Howard M. Casway, Senior Assistant Attorney General, was present as legal counsel for the Committee of the Joint Boards. Ms. Holbert was present and was represented by Ann Sullivan, Esquire. The proceedings were recorded by a certified court reporter.

Upon consideration of the evidence presented, the Committee of the Joint Boards adopted the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1. Patricia Holbert, R.N., L.N.P., was issued License No. 0001-078406 on September 10, 1980, to practice professional nursing in the Commonwealth. On October 7, 1996, Ms. Holbert was issued License No. 0024-078406 to practice as a licensed nurse practitioner in the category of family care, and License No. 0017-001029 for prescriptive authority, by the Committee of the Joint Boards. All licenses are active and set to expire on May 31, 2010.
2. During the course of her employment as a nurse practitioner with Eastern Shore Rural Health Systems, from December 12, 2005, through December 22, 2006, Ms. Holbert stipulated that she wrote prescriptions for patients without a Joint Boards-approved prescriptive authority agreement with her supervising physicians. Ms. Holbert further admitted that she failed to follow up with the Joint Boards when she did not

receive the acknowledgment of her current practice agreement. Her current employer does not authorize Ms. Holbert to prescribe Scheduled II-V controlled substances. Ms. Holbert further admitted that she has not entered into a written protocol with her collaborating physician governing her practice as a nurse practitioner and that her electronic patient charts have not been reviewed by her collaborating physician. Ms. Holbert's testimony revealed a serious lack of understanding as to the administrative requirements for practice as a nurse practitioner.

3. During the course of her employment as a nurse practitioner with Eastern Shore Rural Health Systems, Ms. Holbert stipulated as follows:

a. On June 1, June 28, and August 28, 2006, Ms. Holbert prescribed Lunesta (eszopiclone, Schedule VI) and 30 tablets of ten (10) milligrams Valium (diazepam, Schedule IV) to a personal friend who was not her patient or the patient of her employer, with whom she had no bona-fide practitioner-patient relationship, without ensuring that a medical or drug history was obtained, and without performing or having performed an appropriate examination. The Valium prescription was called in to a pharmacy using the name of her supervising physician, without the physician's knowledge or approval. During the investigative interview, Ms. Holbert advised the investigator that the 30-tablet prescription was intended to constitute a small amount in order to enable her friend to get through the weekend.

b. On July 27, 2006, Ms. Holbert directed a co-worker to call in to a pharmacy a prescription for Klonopin (clonazepam, Schedule IV) for her own personal use, and on September 15, 2006, she directed another co-worker to call in a prescription for five (5) tablets of Lexapro (escitalopram, Schedule VI) for her own personal use. In each instance, Ms. Holbert did not ensure that a medical or drug history was obtained and she did not perform or have performed an appropriate examination. Further, Ms. Holbert directed her co-workers to use the name of her supervising physician without the physician's knowledge or approval.

4. During the course of her employment with Cumberland Plateau Health District of the Virginia Department of Health, Tazewell, Virginia, Ms. Holbert stipulated as follows:

a. On July 23, 2004, Patient B requested a change in her birth control method as the Depo-Provera she was taking did not agree with her. Ms. Holbert inappropriately argued with Patient B about her preference of birth control alternatives. This patient subsequently expressed fear of Ms. Holbert and future confrontation with her. Ms. Holbert testified that her communication and prescriptive considerations with this patient were influenced, in part, by Ms. Holbert's personal health experiences.

b. On August 2, 2004, Ms. Holbert's supervising physician at Cumberland Plateau Health District, Lebanon, Virginia, temporarily limited her prescribing practice to Schedule VI drugs and her practice agreement due to unprofessional conduct in the clinical setting. He permanently rescinded the agreement on August 20, 2004. In addition to the allegations as set forth above, it was also reported to him that Ms. Holbert acted unprofessionally in that:

i. She made demeaning comments to patients, including but not limited to opining about patients' tattoos and piercings. Ms. Holbert testified that her comments were, in part, related to her concerns about the tattoos and piercing in general and she regrets that her comments were perceived as demeaning.

ii. She inappropriately commented to patients concerning their relationships.

### **CONCLUSIONS OF LAW**

The Committee of the Joint Board concludes that:

1. Finding of Fact No. 2 constitutes a violation of § 54.1-2957.01(A) and (B) of the Code and 18 VAC 90-40-90(A) and 90-40-130(1) of the Regulations for Prescriptive Authority for Nurse Practitioners.

2. Findings of Fact Nos. 3(a) and (b) constitute a violation of §§ 54.1-2957.01(A), (B), and (E), and 54.1-3303 of the Code, 18 VAC 90-30-220(3) and (4) of the Regulations Governing the Licensure of Nurse Practitioners, and 18 VAC 90-40-130(1) of the Regulations for Prescriptive Authority for Nurse Practitioners.

3. Findings of Fact Nos. 4(a) and (b) constitute a violation of 18 VAC 90-30-220(4) of the Regulations Governing the Licensure of Nurse Practitioners.

**ORDER**

WHEREFORE, the Committee of the Joint Boards, effective upon entry of this Order, hereby ORDERS that Patricia A. Holbert, R.N., L.P.N., is hereby placed on INDEFINITE PROBATION as a nurse practitioner with prescriptive authority, subject to the following terms and conditions:

1. The period of probation shall begin on the date that this Order is entered and shall continue indefinitely. After a period of not less than one year of active employment in both capacities as nurse practitioner and with prescriptive authority, Ms. Holbert may petition the Committee of the Joint Boards to reinstate her license and her authority to prescribe without restriction.

2. Ms. Holbert shall inform the Joint Boards in writing within ten (10) days of the date she changes employment, or any interruption in her nurse practitioner or prescriptive authority practice. Additionally, Ms. Holbert shall provide the name and address of each employer to the Joint Boards.

3. Ms. Holbert shall inform her current nurse practitioner employer and each future nurse practitioner employer that the Committee of the Joint Boards has placed her on probation and shall provide each employer with a complete copy of this Order.

4. Performance Evaluations shall be provided quarterly, at the direction of Ms. Holbert, by her supervising physician, as provided by the Compliance Division.

5. Ms. Holbert shall submit a copy of a written protocol jointly developed between herself and her supervising physician that meets the requirements of 18 VAC 90-30-10 of the Regulations Governing the Licensure of Nurse Practitioners. Ms. Holbert's practice shall be consistent with and in accordance with the foregoing regulations.

6. Ms. Holbert's January 28, 2009, Practice Agreement shall be reviewed and acted upon by the Joint Boards upon receipt and approval of the written protocol. Ms. Holbert shall not prescribe any Schedule II – V controlled substances, and her prescriptive authority shall be limited to the prescribing of Schedule VI controlled substances for a period of not less than one year.


7. Ms. Holbert shall return all copies of her license to practice as a nurse practitioner with prescriptive authority to the Board office within ten (10) days of the date of entry of this Order along with a payment of a fee of \$5.00. Upon receipt, the Board shall issue a new license marked "Valid in Virginia Only; Probation with Terms."

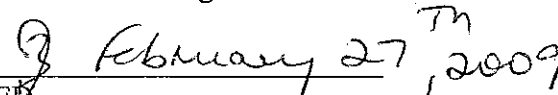
8. Ms. Holbert shall maintain a course of conduct in her capacity as a nurse practitioner with prescriptive authority commensurate with the requirements of § 54.1-3000 *et seq.* and § 54.1-2957 *et seq.* of the Code and the Regulations Governing the Licensure of Nurse Practitioners and the Regulations for Prescriptive Authority for Nurse Practitioners.

9. Any violation of the terms and conditions stated in this Order shall be reason for revoking the nurse practitioner license and prescriptive authority of Ms. Holbert and an administrative proceeding shall be held to decide whether her nurse practitioner license and prescriptive authority shall be revoked.

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 COMMITTEE OF THE JOINT BOARDS

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


  
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, Richmond, 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.

**Certificate of Service**

I hereby certify that a true copy of the foregoing Order was mailed on this day to Patricia A. Holbert, R.N., L.N.P., at 5028 Mosby Road, Virginia Beach, Virginia 23455, and to Ann Sullivan, Esquire, at Crenshaw, Ware & Martin, 1200 Bank of America Center, One Commercial Place, Norfolk, Virginia 23510.

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

*February 27<sup>th</sup>, 2009*  
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DATE