

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE:**

**DAMON N. DUNN, L.P.N., R.N. APPLICANT**

**ORDER**

In accordance with §§ 2.2-4019, 2.2-4021 and 54.1-2400(7)/(10) of the Code of Virginia (1950), as amended ("Code"), an informal conference was conducted on behalf of the Board of Nursing ("Board") on January 15, 2009, in Henrico County, Virginia. Damon N. Dunn, L.P.N., was present and was not represented by legal counsel. Jodi Power, R.N., J.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On March 18, 2009, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mr. Dunn was not present nor was he represented by legal counsel.

Based upon its review of the Recommended Decision of the Agency Subordinate, the Board makes the following Findings of Fact and Conclusions of Law and issues the following Order.

**FINDINGS OF FACT**

1. Damon N. Dunn, L.P.N., was issued License No. 0002-075188 to practice practical nursing in Virginia on January 18, 2007, following an informal conference held November 13, 2006, to consider his 2005 criminal conviction history. Mr. Dunn's practical nursing license is current and will expire on August 31, 2009. Mr. Dunn also submitted an application for licensure as a professional nurse by examination in Virginia, which was received by the Board on July 8, 2008. Mr. Dunn tested on October 21, 2008, but was not successful on the NCLEX-RN examination and has not been issued a professional nursing license.

2. By letter dated December 15, 2008, the Board of Nursing sent a Notice of Informal Conference (“Notice”) to Mr. Dunn notifying him that an informal conference would be held on January 15, 2009. The Notice was sent by certified and first class mail to 63 Ferguson Lane, Newport News, Virginia 23601, the address of record on file with the Board of Nursing.

3. While employed with Riverside Regional Medical Center, Newport News, Virginia, by his own admission, from August 2007 until on or about October 20, 2008, Mr. Dunn diverted Toradol (Schedule VI), Dilaudid (hydromorphone, Schedule II), Morphine (Schedule II) and Demerol (meperidine, Schedule II) on multiple occasions for his personal and unauthorized IM and IV use, as well as for the use of others including his roommate, his girlfriend, a RN coworker and her husband. His diversion was accomplished by falsely documenting the diverted narcotic medication left in PCA pumps as “wasted,” using other nurses’ uncleared access for verifying wastage, signing out medication from the PYXIS and not administering it, as well as overriding the PYXIS. A urine drug screen obtained on October 20, 2008, subsequent to his admitting diversion to Riverside was positive for morphine, hydromorphone, and meperidine metabolites, for which he had no valid prescriptions. As a result, his employment was terminated. No criminal charges have been filed to date.

4. Mr. Dunn denied using while on duty any of the medication he diverted, but showed signs and symptoms of withdrawal while at work in October 2008. He denied using drugs the day he took the NCLEX-RN exam, but admitting using IV drugs 12 hours prior to taking the NCLEX examination. He had previously obtained these drugs from Riverside.

5. By his own admission, Mr. Dunn is unsafe to practice practical nursing due to his addiction to narcotic medication, which he acknowledged to Department of Health Professions Investigator and during the informal conference. Mr. Dunn reported that his opiate addiction began in August 2007, after receiving prescription pain medication following wisdom teeth extractions. Mr. Dunn stated that he liked the way the hydrocodone made him feel, and the desire continued while he had access to controlled medication at work. At the informal conference, Mr. Dunn reported his date of sobriety to be October 27, 2008. Mr. Dunn contacted the Virginia Health Practitioners' Intervention Program ("HPIP") on October 30, 2008, and signed a Participation Contract on November 3, 2008. Mr. Dunn received inpatient treatment for his chemical dependency at Edgehill, Winchester, Virginia, from December 8, 2008, to January 6, 2009. Once discharged, Mr. Dunn began outpatient treatment at Tidewater Counseling Center, where he currently participates in three group meetings per week and is susceptible to random urine drug screens. He reports attending two Narcotics Anonymous or Alcoholics Anonymous meetings per week and actively working a recovery program, but has not identified a sponsor. According to his HPIP Case Manager, Dawn France, Mr. Dunn signed a Recovery Monitoring Contract on January 10, 2009, and is currently in compliance. Mr. Dunn has not been approved to work in nursing, but is employed in a local restaurant.

6. Mr. Dunn expressed shame and remorse for his actions during the informal conference, as well as his sincere intent to comply with treatment and the HPIP. He hopes to return to work in nursing in the near future and to be able to pursue professional nurse licensure.

**CONCLUSIONS OF LAW**

Finding of Fact # 3 constitutes a violation of § 54.1-3007(2), (5) and (6) of the Code, and 18 VAC 90-20-300(A)(2)(c) and (e) of the Regulations Governing the Practice of Nursing.

**ORDER**

WHEREFORE, it is hereby ORDERED as follows:

1. License No. 0002-075188 of Damon N. Dunn is INDEFINITELY SUSPENDED.
2. The license shall be recorded as SUSPENDED and no longer current.
3. This suspension applies to any multistate privilege to practice practical nursing in the Commonwealth of Virginia.
4. At such time as Mr. Dunn shall petition the Board for reinstatement of his license, an administrative proceeding will be convened to determine whether he is capable of resuming the safe and competent practice of practical nursing. Mr. Dunn 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.
5. This suspension shall be STAYED upon proof of not less than six months' compliance with a Recovery Monitoring Contract with the HPIP pursuant to Chapter 25.1 of Title 54.1 of the Code and 18 VAC 76-10-10 *et seq.* of the Regulations Governing the HPIP. At such time, the indefinite suspension shall be STAYED and the following terms and conditions shall apply:
  - a. Mr. Dunn shall comply with all terms and conditions for the period specified by the HPIP.

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 Mr. Dunn, and an administrative proceeding shall be held to determine whether his license shall be revoked. The stay of indefinite suspension may be summarily rescinded at such time the Board is notified that:

- i. Mr. Dunn is not in compliance with the terms and conditions specified by the HPIP;
- ii. Mr. Dunn's participation in the HPIP has been terminated;
- iii. There is a pending investigation or unresolved allegation against Mr. Dunn involving a violation of law, regulation, or any term or condition of this Order.

6. This Order is applicable to Mr. Dunn's multistate licensure privileges, if any, to practice practical nursing in the Commonwealth of Virginia. For the duration of this Order, Mr. Dunn shall 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 Mr. Dunn wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

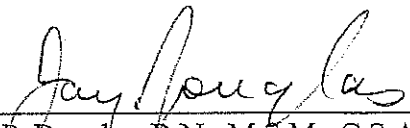
7. Mr. Dunn shall maintain a course of conduct in his capacity as a practical nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

This Order is subject to appeal to the Board. If Mr. Dunn desires a formal administrative hearing before the Board pursuant to §§ 2.2-4020 and 2.2-4021 of the Code, he must notify Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite

300, Richmond, Virginia 23233, in writing, within thirty-three (33) days from the date of service of this Order. Upon the filing of a request for the hearing with the Executive Director, this Order shall be vacated.

Pursuant to § 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 a public record, and shall be made available for public inspection and copying upon request.

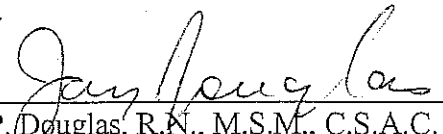
FOR THE BOARD

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

Entered: March 27<sup>th</sup>, 2009

Certificate of Service

I hereby certify that a true copy of the foregoing Order was mailed this day to Damon N. Dunn, L.P.N., 63 Ferguson Lane, Newport News, Virginia 23601.

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

March 27<sup>th</sup>, 2009  
DATE