

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: Denise Wagner Fair, R.N.
License Number: 0001-139796
Case Number: 169749

RATIFICATION AND ORDER

On July 20, 2016, a panel of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Denise Wagner Fair, R.N. was not present nor was she 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(K), the Board considered whether to disclose or not disclose Ms. Fair's health records or health services.

Pursuant to Virginia Code § 54.1-2400(10), Ms. Fair may, not later than 5:00 p.m., on August 30, 2016, 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 she 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

Gloria Mitchell-Swidy
for Jay Douglas, M.S.M, R.N., C.S.A.C., F.R.E.
Executive Director
Virginia Board of Nursing

ENTERED AND MAILED ON:

July 28, 2016

This Order shall become final on August 30, 2016, unless a request for a formal administrative hearing is received as described above.

Certified True Copy

By *D. Fowler*
Virginia Board of Nursing

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: Denise Wagner Fair, R.N.
License Number: 0001-139796
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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), Judith Piersall, R.N., B.S.N., serving as Agency Subordinate of the Virginia Board of Nursing (“Board”), held an informal conference on May 3, 2016 in Henrico County, Virginia, to inquire into evidence that Denise Wagner Fair, R.N. may have violated certain laws and regulations governing the practice of professional nursing in the Commonwealth of Virginia.

Ms. Fair 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 March 29, 2016, the Board of Nursing sent a Notice of Informal Conference (“Notice”) to Ms. Fair notifying her that an informal conference would be held on May 3, 2016. The Notice was sent by certified and first class mail to the legal address of record on file with the Board of Nursing.

Recommended Findings of Fact and Conclusions of Law

1. Denise Wagner Fair, R.N. was issued License Number 0001-139796 to practice professional nursing on August 5, 1994, which is scheduled to expire on July 31, 2017. At all times

relevant to the allegations herein, said license was in full force and effect. Her primary state of residence is Virginia.

2. Denise Wagner Fair, R.N. violated Virginia Code § 54.1-3007(2), (5), and (8) and 18 VAC 90-20-300(A)(2)(f) of the Regulations Governing the Practice of Nursing in that during the course of her employment with Riverside Hospice, Newport News, Virginia, between July and August 2015, on multiple occasions, she missed home health appointments for multiple patients without contacting or rescheduling with the patients. Further, Ms. Fair failed to check vital signs, properly assess patients, provide patients with physician-ordered care including dressing changes, or process orders for prescribed medications. Multiple patients and their family members submitted detailed complaints about Ms. Fair's poor work performance, and several asked to be switched to a new nurse.

3. Ms. Fair received a written warning related to the patient complaints on August 17, 2015. When the patient complaints continued to come in, Ms. Fair's employment was suspended pending investigation of the matter. Ms. Fair went on medical leave to check into the Farley Center at Williamsburg Place, Williamsburg, Virginia ("Farley Center") on August 30, 2015. Ms. Fair was allowed to resign from employment with Riverside Hospice effective December 25, 2015.

4. Ms. Fair violated Virginia Code § 54.1-3007(5) and (6) in that, by her own admission, in August 2015, during the course of her treatment at the Farley Center, Ms. Fair's drinking had recently started to affect her job and she would drink so much that in the morning, she was not "clear." Further, Ms. Fair acknowledged that she had missed scheduled patient visits to go home and drink.

5. Ms. Fair violated Virginia Code § 54.1-3007(6) in that she is unsafe to practice professional nursing due to substance abuse, chemical dependency, and/or mental illness, as evidenced by the following:

a. On August 30, 2015, Ms. Fair received treatment at the emergency department of Sentara Williamsburg Regional Medical Center, Williamsburg, Virginia for diagnoses including acute alcohol intoxication with alcoholism and alcoholic hepatitis without ascites.

b. From August 31 through October 7, 2015, Ms. Fair received inpatient treatment at the Farley Center. Ms. Fair's discharge diagnoses included alcohol dependence; alcohol withdrawal, resolved; anxiety disorder, in partial remission; alcohol-related mood disorder, resolving; and cognitive disorder, unspecified, resolving.

c. On November 19, 2015, Ms. Fair received treatment at the Riverside Regional Medical Center, Newport News, Virginia for diagnoses of major depression, acute exacerbated; alcohol abuse; and suicidal ideation.

d. Between November 19 and November 23, 2015, Ms. Fair received inpatient treatment at Riverside Behavioral Health Center, Newport News, Virginia after using alcohol.

8. Ms. Fair was discharged from the Farley Center with a guarded prognosis. The Farley Center recommended that Ms. Fair go to sober living instead of returning home, enter an intensive outpatient program, or enroll in the Health Practitioners' Monitoring Program ("HPMP"). Ms. Fair declined all of these recommendations. At the informal conference, Ms. Fair stated that she had attended AA meetings in October and had seen a therapist for pastoral care three to four times, but had stopped doing both.

9. Ms. Fair stated that she is currently employed part-time with a radiologist in the Riverside Health System. Her employer is not aware of this matter before the Board.

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 of Denise Wagner Fair to practice professional nursing is INDEFINITELY SUSPENDED.
2. The license will be recorded as suspended.
3. This suspension applies to any multistate privilege to practice professional nursing.
4. Should Denise Wagner Fair seek reinstatement of her license, an administrative proceeding shall be convened to consider such application. At such time, the burden shall be on Denise Wagner Fair to demonstrate that she is safe and competent to return to the practice of professional nursing. Denise Wagner Fair 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.
5. The suspension shall be STAYED upon proof of Denise Wagner Fair's entry into a Contract with the Virginia Health Practitioners' Monitoring Program ("HPMP").
6. Upon stay of the suspension, Denise Wagner Fair shall comply with all terms and conditions of the HPMP for the period specified by the HPMP.
7. Upon receipt of evidence of Denise Wagner Fair's participation in and successful completion of the terms specified by the HPMP, the Board, at its discretion, may waive Denise Wagner Fair's appearance before the Board and conduct an administrative review of this matter, at which time she may be issued an unrestricted license.
8. This Order is applicable to Denise Wagner Fair's multistate licensure privileges, if any, to practice professional nursing. For the duration of this Order, Denise Wagner Fair 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 she seeks to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

9. Failure to comply with the terms and conditions of the stay of suspension shall be reason for summarily rescinding the stay of suspension of the license of Denise Wagner Fair, and the license shall be recorded as suspended. After any rescission of the stay of suspension, a formal administrative proceeding shall be instituted.

Reviewed and approved on May 27, 2016
By Judith Piersall, R.N., B.S.N.
Agency Subordinate

Certified True Copy

By J. Fowler
Virginia Board of Nursing