

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE: CHRISTOPHER CARTER, L.P.N. APPLICANT**  
License No.: 0002-86490

**ORDER**

In accordance with §§ 2.2-4019, 2.2-4021 and 54.1-2400(7) and (10) of the Code of Virginia (1950), as amended ("Code"), an informal conference was conducted on behalf of the Board of Nursing ("Board") on September 1, 2011, in Henrico County, Virginia. Christopher Carter 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 November 15, 2011, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mr. Carter 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. Christopher Carter submitted an application to the Virginia Board of Nursing for licensure as a practical nurse by endorsement which was received on May 4, 2011. He declared Virginia as his primary state of residence. Mr. Carter was issued a license to practice practical nursing by the state of Tennessee on March 3, 2008 with multistate privileges to practice.

2. By letter dated August 1, 2011, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Mr. Carter notifying him that an informal conference would be held on September 1, 2011. The Notice was sent by certified and first class mail to 26281 Northridge Road, Meadowview, Virginia 24361, the address of record on file with the Board of Nursing.

3. Mr. Carter voluntarily entered a recovery monitoring agreement with the Tennessee

Professional Assistance Program (TnPAP) in September 2007 for two years' worth of monitoring for acknowledged alcohol abuse.

4. Mr. Carter was convicted of driving under the influence (DUI) on three occasions in Tennessee: on February 22, 2006 in Sullivan County General Session Court; on July 19, 2006 in Sullivan County General Session Court; and on April 15, 2010 in Washington County General Sessions Court.

5. Mr. Carter's license to practice practical nursing in the State of Tennessee was revoked on June 8, 2010 based upon his receiving a third DUI conviction in 2010 and being discharged from the TnPAP for noncompliance in January 2009. He is unable to pursue reinstatement of his license in Tennessee because he now resides in Virginia and both states are parties to the Nurse Licensure Compact.

6. On his application for licensure to practice practical nursing in Virginia, dated April 29, 2011, Mr. Carter answered "no" to the question whether he had a chemical dependency condition which could interfere with his current ability to practice nursing, when, in fact, he was convicted of driving under the influence three times between 2006 and 2010, had substance abuse treatment, and entered and was dismissed from the Tennessee Professional Assistance Program in January, 2009, for non-compliance. At the informal conference, Mr. Carter admitted that he is a recovering alcoholic and should have answered "yes" to this question on the application. He mistakenly believed the question was referring only to drug dependency.

7. Mr. Carter received substance abuse treatment with the Holston Medical Group in August 2008, but relapsed in 2009 and received his final DUI charge. His date of sobriety is reported to be September 11, 2009. He has regularly attended one to three AA meetings per week and had the same sponsor for the past two years. He has satisfied all court ordered requirements related to his

convictions.

8. Mr. Carter was employed as a nurse for two years working at facilities in Tennessee and Virginia. Prior to being licensed as a LPN in Tennessee, he worked at a facility for three years as a certified nurse aide. He denied ever working while impaired or that his alcohol use ever impacted his nursing performance.

9. At the informal conference, Mr. Carter indicated that he is willing to be monitored in Virginia by the Health Practitioners' Monitoring Program ("HPMP").

### **CONCLUSIONS OF LAW**

1. Findings of Fact Nos. 3, 4 and 6 constitute violations of § 54.1-3007(6) of the Code.
2. Finding of Fact No. 5 constitutes a violation of § 54.1-3007(7) of the Code.
3. Finding of Fact No. 6 constitutes a violation of § 54.1-3007(1) of the Code and 18 VAC 90-20-300(A)(1)(b) of the Regulations Governing the Practice of Nursing.
4. Mr. Carter is a candidate for the HPMP.
5. Mr. Carter otherwise meets the requirements of § 54.1-3021 of the Code.

### **ORDER**

WHEREFORE, it is hereby ORDERED as follows:

1. The application of Christopher Carter for licensure by endorsement as a practical nurse is APPROVED, contingent upon the following conditions:
  - a. Mr. Carter shall provide the Board with proof of entry into the HPMP.
  - b. Thereafter, Mr. Carter shall comply with the terms and conditions of the HPMP for the period specified by the HPMP.
2. Christopher Carter is hereby REPRIMANDED.
3. This Order is applicable to Mr. Carter's multistate licensure privileges, if any, to practice

practical nursing in the Commonwealth of Virginia. For the duration of this Order, Mr. Carter 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 he wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

4. Christopher Carter 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.

5. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Mr. Carter, and an administrative proceeding shall be held to decide whether his license should be revoked. Mr. Carter shall be noticed to appear before the Board at such time as the Board is notified that:

a. He is not in compliance with the terms and conditions of the HPMP, or has been terminated from participation in the HPMP;

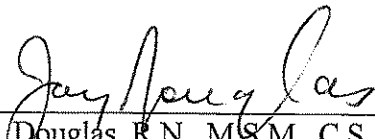
b. There is a pending investigation or unresolved allegation against him involving a violation of law or regulation or any term or condition of this Order; or

c. He has successfully completed the above-referenced period of participation in the HPMP. However, upon receipt of Mr. Carter's participation in and compliance with the HPMP, the Board, at its discretion, may waive his appearance before the Board and conduct an administrative review of this matter.

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.

Pursuant to Section 54.1-2400(10) of the Code, Mr. Carter may, not later than 5:00 p.m., on December 27, 2011, notify Jay P. Douglas, R.N., M.S.M., C.S.A.C., 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:

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

ENTERED: November 22<sup>nd</sup>, 2011

This Order shall become final on **December 27, 2011**; unless a request for a formal administrative hearing is received as described above.