

**BEFORE THE VIRGINIA BOARD OF NURSING**

**IN RE:           CHERRI VELVET WHITAKER, L.P.N.**  
**License Number: 0002-077301**  
**Case Number:       168739**

**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. CHERRI VELVET WHITAKER, L.P.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.

Since Ms. Whitaker failed to appear at the informal conference, this Order shall be considered final. Ms. Whitaker has the right to appeal this Order directly to the appropriate Virginia circuit court. As provided by Rule 2A:2 of the Supreme Court of Virginia, Ms. Whitaker has thirty days from the date of service (the date she actually received this decision or the date it was mailed to her, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E., Executive Director, Board of Nursing, at Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233. In the event that this decision is served by mail, three days are added to that period.

FOR THE BOARD

*for Gloria Mitchell-Swartz*  
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 27<sup>th</sup> 2016*

**Certified True Copy**

By *[Signature]*  
Virginia Board of Nursing

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**REPORT AND RECOMMENDATION OF AGENCY SUBORDINATE**

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**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 April 20, 2016 in Henrico County, Virginia, to inquire into evidence that CHERRI VELVET WHITAKER, L.P.N. may have violated certain laws and regulations governing the practice of practical nursing in the Commonwealth of Virginia.

Ms. Whitaker did not appear 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 21, 2016, the Board of Nursing sent a Notice of Informal Conference (“Notice”) to Ms. Whitaker notifying her that an informal conference would be held on April 20, 2016. The Notice was sent by certified and first class mail to the legal address of record on file with the Board of Nursing. According to the USPS tracking website, delivery of the Notice sent by certified mail was attempted but the Notice remained unclaimed. The Notice sent by first class mail was returned to the Board office. Accordingly, the Agency Subordinate concluded that adequate notice was provided to Ms. Whitaker and the informal conference proceeded in her absence.

### Recommended Findings of Fact and Conclusions of Law

1. CHERRI VELVET WHITAKER, L.P.N. was issued License Number 0002-077301 to practice practical nursing on December 17, 2007, which is scheduled to expire on August 31, 2017. At all times relevant to the allegations herein, said license was in full force and effect. She held licenses in Georgia, North Carolina, and Tennessee, all of which expired in the 1990s. Her primary state of residence is Virginia.

2. CHERRI VELVET WHITAKER, L.P.N. violated Virginia Code § 54.1-3007(5) in that during the course of her employment with Mount Vernon Nursing and Rehabilitation Center, Alexandria, Virginia ("Mount Vernon"), between April and July 2015, she made numerous errors with respect to the withdrawal, administration, and documentation of controlled substances, as evidenced by the following:

a. On June 18, 19, and 25, 2015, she signed out one dose of Percocet (oxycodone/acetaminophen, C-II) on Patient A's Controlled Medication Utilization Record ("CMUR"), but she failed to document administration of these doses in the patient's Medication Administration Record ("MAR").

b. On June 20 and 22 and July 1 and 4, 2015, she signed out one dose of oxycodone on Patient B's CMUR, but she failed to document administration of these doses in the patient's MAR.

c. On April 4, 7, and 11 and June 28, 2015, she signed out one dose of diazepam (C-IV) on Patient C's CMUR, but she failed to document administration of these doses in the patient's MAR.

d. On April 1 and 2, 2015, she signed out four .25ml doses of morphine (C-II) on Patient D's CMUR, but she documented administering only three of these doses on the patient's MAR. No other nurse gave this patient morphine more than once a shift, if at all.

e. On May 23 and 24, 2015, she signed out one dose of alprazolam (C-IV) on Patient E's CMUR, but she failed to document administration of these doses on the patient's MAR.

f. On May 23 and 24, June 20, and July 1 and 4, 2015, she signed out one dose of Tramadol (C-IV) on Patient E's CMUR, but she failed to document administration of these doses on the Patient's MAR.

g. On July 1 and 4, at 9:00 a.m., she signed out one dose of Ritalin (methylphenidate, C-II) on Patient E's CMUR, but she failed to document administration of these doses on the patient's MAR. Further, another nurse had already signed out and documented administering one dose of Ritalin for Patient E at 9:00 a.m. on July 1, 2015.

3. Ms. Whitaker denied diverting any medications. She stated that she was just too lazy to document properly. Her employment with Mount Vernon was terminated on July 17, 2015.

4. Ms. Whitaker violated § 54.1-3007(5) and (6) of the Code in that on July 10, 2015, she tested positive for morphine and heroin on a drug screen that was requested by Mount Vernon during an investigation into her documentation and administration of controlled medications. She did have a prescription for the morphine.

5. Ms. Whitaker violated § 54.1-3007(6) of the Code in that she is unsafe to practice nursing due to substance abuse and/or physical and/or mental illness, as evidenced by her diagnosis of and treatment for bipolar disorder, her dependence on narcotics for long-term treatment of chronic pain, and her use of heroin.

6. Ms. Whitaker had a longstanding prescription for morphine for treatment of chronic pain. She told an investigator for the Department of Health Professions that she regularly took 30mg of morphine before going to work and then 60mg after coming home from work.

7. Ms. Whitaker entered into a Participation Contract with the Health Practitioners' Monitoring Program ("HPMP") on November 19, 2015. She was dismissed from the HPMP on February 5, 2016, for failing to complete a recommended assessment. Further, she stated that she intended to retire from nursing and give up her license. At the time of her discharge from the HPMP, she was prescribed Ambien, lithium, Lamictal, Zyprexa, Celexa, Flexeril, and Klonopin in addition to morphine.

#### 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 CHERRI VELVET WHITAKER to practice practical nursing in the Commonwealth of Virginia is INDEFINITELY SUSPENDED.
2. The license of CHERRI VELVET WHITAKER will be recorded as SUSPENDED.
3. This suspension applies to any multistate privilege to practice practical nursing.
4. Should CHERRI VELVET WHITAKER seek reinstatement of her license, an administrative proceeding shall be convened to consider such application. At such time, the burden shall be on CHERRI VELVET WHITAKER to demonstrate that she is safe and competent to return to the practice of nursing. Ms. Whitaker 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.

Reviewed and approved on May 3, 2016  
By Jane Elliott, R.N., Ph.D.  
Agency Subordinate

**Certified True Copy**

By   
**Virginia Board of Nursing**