

VIRGINIA:

BEFORE THE BOARD OF NURSING

RE: JESSICA ALESHA McGRADY, C.N.A., L.P.N.

ORDER

Pursuant to § 2.2-4020, § 2.2-4021, § 54.1-110 and § 54.1-2400(11) of the Code of Virginia (1950), as amended (the "Code"), a formal administrative hearing was held before a panel of the Board of Nursing (the "Board") on March 24, 2004, in Henrico County, Virginia, to receive and act upon evidence that Jessica Alesha McGrady, C.N.A., L.P.N., may have violated certain laws and regulations governing the practice of nursing in Virginia. The case was presented by John K. Dickinson, Senior Adjudication Analyst. Emily O. Wingfield, Assistant Attorney General, was present as legal counsel for the Board. Ms. McGrady was present and was not represented by counsel. The proceedings were recorded by a certified court reporter.

Upon consideration of the evidence presented, the Board adopted the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Jessica A. McGrady, C.N.A., L.P.N., previously held certificate No. 1401-059790, which expired on June 30, 2002, to practice as a nurse aide in the Commonwealth of Virginia, and currently holds license No. 0002-062510, which will expire on February 28, 2005, to practice practical nursing in the Commonwealth of Virginia.
 2. The Board of Nursing entered an Order on March 11, 2003, to take no disciplinary action contingent upon Ms. McGrady's compliance with certain terms and conditions, to include her entry into and compliance with a Recovery Monitoring Contract with the Health Practitioners' Intervention Program ("HPIP"), pursuant to Chapter 25.1 of Title 54.1 of the Code of Virginia (1950) as amended, and 18 VAC 76-10-10 *et seq.*, of the Regulations
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governing HPIP. Ms. McGrady failed to comply with the terms and conditions of her contract with HPIP, and was dismissed from the program by letter dated April 29, 2003.

3. On April 8, 2003, Ms. McGrady was diagnosed with opioid dependence, and referred for intensive outpatient treatment.

4. During the course of Ms. McGrady's employment with Carilion New River Valley Medical Center, Christiansburg, Virginia:

a. By her own admission, in approximately June 2001, Ms. McGrady took blank prescription slips from the prescription pad of Kary Donnelly, M.D. As a result, Ms. McGrady's employment was terminated. Additionally, on or about June 26, 2001, Ms. McGrady advised the arresting officer that on or about June 24, 2001, she took several prescription blanks.

b. Ms. McGrady received two counselings which may constitute a pattern of conduct that may represent a danger to the health, safety and welfare of the public as follows:

(i) On or about June 9, 2001, Ms. McGrady was counseled for not obtaining vital signs when asked and for failing to assist in toileting, bathing and feeding residents when requested. Additionally, Ms. McGrady was counseled for leaving the unit without advising her charge nurse that she was leaving, taking excessive breaks, and appearing to be asleep during report and while sitting at the nurses' station. Ms. McGrady's employment was suspended for one day.

(ii) On or about April 5, 2001, Ms. McGrady was counseled for failing to be accessible to the nursing staff when needed on the unit, taking excessive breaks, and failing to notify her supervisor when leaving the unit.

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5. By her own admission, on or about June 25, 2001, Ms. McGrady presented a forged prescription for Lortab to the CVS Pharmacy in the name of Jennifer Hodge, upon which Ms. McGrady forged the signature of Dr. Donnelly.

6. Ms. McGrady, by her own admission, on or about June 25, 2001, presented a forged prescription to the Kroger Pharmacy in the name of Jennifer Dowdy, upon which she forged the signature of Dr. Donnelly. The prescription was not filled due to the pharmacist having received a telephone call from CVS Pharmacy indicating that Ms. McGrady had presented a forged prescription for Lortab.

7. On or about October 16, 2001, in the Circuit Court of Pulaski County, Virginia, Ms. McGrady was placed on probation under the terms of an Advisement Order on two (2) counts of possessing a Schedule II drug. Ms. McGrady entered a plea of guilty, and there was sufficient evidence for a finding of guilt. The court took the matter under advisement for one (1) year, and she was placed on probation through the Community Corrections Office. The Court Order stated that Ms. McGrady's probation would be under the terms and conditions of § 18.2-251, and she shall be evaluated and enter a treatment or education program, and that she shall remain drug free and submit to urine drug screens. On or about June 17, 2002, a Show Cause Order was issued due to noncompliance with the October 16, 2001 Court Order. On or about June 17, 2002, the Court continued the matter for an additional year. By her own admission, Ms. McGrady was ultimately convicted of two misdemeanors and placed on probation for 24 months.

8. On or about June 26, 2001, Ms. McGrady entered Carilion St. Alban's Hospital, Radford, Virginia, for opiate detoxification. Ms. McGrady was offered an intensive outpatient program upon discharge, but she refused, indicating that she planned to obtain treatment as a result of the court order.

9. By her own admission, Ms. McGrady was indicted in or about February 2004 on four felony charges of prescription fraud involving Ultram (tramadol). Ms. McGrady testified that these charges relate to incidents in October and November 2003.

10. Ms. McGrady testified that she has been chemically dependent for three years. She reported a sobriety date of January 6, 2004.

11. Ms. McGrady underwent inpatient treatment from January 6, 2004, through February 10, 2004, at New Life Recovery and is currently in aftercare. She reported that she attends AA, NA and Caduceus, and has a sponsor.

12. On or about January 30, 2004, Ms. McGrady signed a participation contract with HPIP. Martha Ann Spruill, HPIP case manager, testified on behalf of Ms. McGrady, and stated that Ms. McGrady was meeting with HPIP the afternoon following the hearing.

CONCLUSIONS OF LAW

The Board concludes that:

1. Finding of Fact No. 2 constitutes a violation of Terms No. 2 and 3 of the Board's Order.
 2. Finding of Fact No. 3 constitutes a violation of §54.1-3007(6) of the Code.
 3. Finding of Fact No. 4 constitutes a violation of § 54.1-3007(5) and (6) of the Code of Virginia.
 4. Finding of Fact No. 5 constitutes a violation of § 54.1-3007(6) of the Code.
 5. Finding of Fact No. 6 constitutes a violation of § 54.1-3007(6) of the Code.
 6. Finding of Fact No. 7 constitutes a violation of § 54.1-3007(4) and (6) of the Code.
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7. Finding of Fact No. 8 constitutes a violation of § 54.1-3007(6) of the Code.

ORDER

WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS that the license of Jessica Alesha McGrady, L.P.N., to practice practical nursing in the Commonwealth of Virginia, be and hereby is placed on INDEFINITE SUSPENSION. The Board orders that said INDEFINITE SUSPENSION will be STAYED at such time as Ms. McGrady provides evidence of the following:

1. Ms. McGrady shall enter into the Health Practitioners' Intervention Program ("HPIP"), pursuant to Chapter 25.1 of Title 54.1 of the Code of Virginia (1950), as amended, and 18 VAC 76-10-10, et. seq., of the Regulations Governing the Health Practitioners' Intervention Program and shall have proof of entry into the HPIP provided to the Board.
2. Upon entering HPIP, Ms. McGrady shall provide HPIP with copies of all information provided to her in the formal hearing package.

At such time as the Indefinite Suspension is STAYED, the following terms and conditions shall apply:

1. Ms. McGrady shall comply with all terms and conditions for the period specified by the HPIP.
2. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Ms. McGrady and an administrative proceeding shall be held to decide whether her license shall be revoked. Ms. McGrady shall be noticed to appear before a Committee at such time as the Board is notified that:
 - a) Ms. McGrady is not in compliance with the terms and conditions specified by the HPIP, or has been terminated from participation in the HPIP, or
 - b) There is a pending investigation or unresolved allegations against Ms. McGrady involving a violation of law, regulation or any term or condition of this order, or,
 - c) Ms. McGrady has successfully completed the specified period of participation in the HPIP.

However, upon receipt of evidence of Ms. McGrady's participation in and compliance with the

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HPIP, the Committee, at its discretion, may waive her appearance before the Committee, and conduct an administrative review of this matter.

Further, the privilege of Jessica Alesha McGrady, C.N.A., to renew her nurse aide certificate is INDEFINITELY SUSPENDED. Should Ms. McGrady petition the Board for the reinstatement of her certificate, an administrative proceeding shall be convened to receive evidence satisfactory to the Board that Ms. McGrady is capable of resuming safe and competent practice as a nurse aide. If the Board reinstates the certificate of Ms. McGrady, the INDEFINITE SUSPENSION will be STAYED subject to the terms and conditions indicated above if she is in compliance with this Order.

Pursuant to Sections 2.2-4023 and 54.1-2400.2 of the Code of Virginia (1950), as amended, 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.

As provided by Rule 2A:2 of the Supreme Court of Virginia, Ms. McGrady has thirty (30) days from the service date 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, 6603 W. Broad Street, Fifth Floor, Richmond, Virginia 23230-1712. The service date shall be defined as the date Ms. McGrady actually received this decision or the date it was mailed to her, whichever occurred first. In the event this decision is served upon her by mail, three (3) days are added to that period.

FOR THE BOARD

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

April 14, 2004
ENTERED

Jessica Alesha McGrady, C.N.A., L.P.N.

CERTIFICATE OF SERVICE

I hereby certify that a certified true copy of the foregoing Order was mailed on this day to Jessica Alesha McGrady, L.P.N., at 913 Bland Street, Pulaski, Virginia 24301.

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

April 14, 2004
DATE

Certified True Copy
By *JPD 4/14/04*
Virginia Board of Nursing