

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: ADRIAN R. KESTNER, R.N.
 License No.: 0001-213064**

ORDER

In accordance with §§ 2.2-4019, 2.2-4021 and 54.1-2400(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 14, 2016, in Henrico County, Virginia. Adrian R. Kestner, R.N., was not present nor was she represented by legal counsel. Jane Elliott, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On March 23, 2016, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Kestner was not present nor was she 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. Adrian R. Kestner, R.N., was issued License No. 0001-213064 to practice professional nursing in Virginia on June 19, 2008. The license expired on February 29, 2016. Her primary state of residence is Virginia.
2. By letter dated December 17, 2015, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Kestner notifying her that an informal conference would be held on January 14, 2016. The Notice was sent by certified and first class mail to 465 Sutton Street, S.W., Abingdon, Virginia 24210, the address of record on file with the Board of Nursing. The certified mail and the first class mail were returned to the Board office marked "return to sender; unable to forward." The Agency

Subordinate concluded that adequate notice was provided to Ms. Kestner and the informal conference proceeded in her absence.

3. During the course of her employment with Maxim Healthcare Services, Abingdon, Virginia, from November 21, 2014 to December 6, 2014, Ms. Kestner submitted nursing flow sheets wherein she documented false arrival and/or departure times.

4. The patient's mother reported Ms. Kestner to the agency. During an interview with an investigator from the Department of Health Professions, the patient's mother stated that she had kept a record of Ms. Kestner's work schedule for November 2014 on her calendar and that she had provided the December 2014 dates verbally to Maxim.

5. Ms. Kestner failed to respond to Maxim's requests to address the issue and her employment was terminated on February 13, 2015. There was no indication of patient harm.

6. On December 13, 2011, in the General District Court of Washington County, Virginia, Ms. Kestner was convicted of writing a bad check, a misdemeanor involving moral turpitude.

7. She was ordered to pay \$81.00 in court costs, which have been paid.

8. On the applicant affirmation statement for Grace Healthcare dated October 11, 2012, Ms. Kestner falsely answered "no" to the question, "have you ever been convicted of a violation of the law, excluding traffic offenses," when, in fact, she had the above-referenced conviction.

9. Ms. Kestner was not interviewed and submitted a written statement to the Department of Health Professions investigator, in which she reported being terminated from four positions since 2011.

CONCLUSIONS OF LAW

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(2), (5) and (8) of the Code and 18 VAC 90-20-300(A)(2)(e) of the Regulations Governing the Practice of Nursing

(“Regulations”).

2. Finding of Fact No. 6 constitutes a violation of § 54.1-3007(4) of the Code.
3. Finding of Fact No. 8 constitutes a violation of § 54.1-3007(2) of the Code and 18 VAC 90-20-300(A)(2)(e) of the Regulations.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. Adrian R. Kestner, R.N., is hereby REPRIMANDED.
2. Ms. Kestner shall pay a MONETARY PENALTY of \$250.00 to the Board within 90 days of the entry of this Order.
3. Ms. Kestner shall maintain a course of conduct in her capacity as a professional nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.
4. Any violation of the terms and conditions of this Order or of any law or regulation affecting the practice of nursing in the Commonwealth of Virginia shall constitute grounds for the suspension or revocation of the license of Adrian R. Kestner, R.N., and an administrative proceeding shall be convened to determine whether such license shall be suspended or revoked.

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.

Since Ms. Kestner failed to appear at the informal conference, this Order shall be considered final. Ms. Kestner 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. Kestner has thirty (30) 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 (3) days are added to that period.

FOR THE BOARD



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

Entered: March 29th, 2016

Certified True Copy

By L. Brath
Virginia Board Of Nursing