

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE:**

**MICHAEL S. ADDAIR, R.N.**

**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 December 9, 2008 in Henrico County, Virginia. Mr. Addair was present and was represented by R. Wayne Austin, Esquire, legal counsel. Janet Younger, R.N., P.N.P., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On January 28, 2009, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mr. Addair 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. Michael S. Addair, R.N., was issued License No. 0001-152616 to practice professional nursing in Virginia on March 24, 1997. Mr. Addair was also issued License No. 0024-167226 to practice as a licensed nurse practitioner by the Committee of the Joint Boards of Nursing and Medicine on December 28, 2006. Both licenses are set to expire on December 31, 2009.

2. By letter dated November 10, 2008, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Mr. Addair notifying him that an informal conference would be held on December 9, 2008. The Notice was sent by certified and first class mail to Route 1, Box 235A, Honaker, Virginia 24260, the address of record on file with the Board of Nursing.

3. Mr. Addair voluntarily surrendered his license to practice nursing and Advanced Registered Nurse Practitioner registration for a period of at least one year to the Kentucky Board of Nursing on January 28, 2008.

4. The voluntary surrender of Mr. Addair's Kentucky license and registration was based upon his admitted diversion of drugs for his own personal and unauthorized use from February 2007 until April 2007, during the course of his employment as a contract anesthetist with Whitesburg Appalachian Regional Hospital, Whitesburg, Kentucky.

5. Mr. Addair pled guilty to 36 misdemeanor counts of Theft of a Controlled Substance Second Degree, on April 30, 2008, in Letcher County Circuit Court of the Court of Justice for the Commonwealth of Kentucky. He was sentenced to 12 months imprisonment, with the judgment withheld, conditioned upon Mr. Addair's successful completion of two years of unsupervised probation.

6. Mr. Addair stated at the informal conference that he diverted the drugs because he was "looking for a way out." He also stated that April 16, 2007, was his sobriety date, and that he attended The Laurels, a drug and alcohol treatment and rehabilitation center in Kentucky. He spent one week in a detoxification program there, and completed six months of outpatient treatment. He also completed a six month outpatient program at Cumberland Mountain Community Services in Lebanon, Virginia. Mr. Addair provided no documentary evidence of completing said treatment.

7. Mr. Addair further stated at the informal conference that he was not currently receiving treatment, and that he was employed at the Southwest Anesthesia in Richlands, Virginia. His employer conducts random drugs screen. Mr. Addair stated that all of his drug screens have been negative and his last screen was in approximately October 2008.

8. Mr. Addair indicated he did not wish to participate in the Virginia Health Practitioners' Intervention Program.

**CONCLUSIONS OF LAW**

1. Finding of Fact # 3 constitutes a violation of § 54.1-3007(7) of the Code.
2. Finding of Fact # 4 constitutes a violation of §54.1-3007(2), (5), and (6) of the Code and 18 VAC 90-20-300(A)(2)(c) of the Regulations Governing the Practice of Nursing.

**ORDER**

WHEREFORE, it is hereby ORDERED as follows:

1. Michael S. Addair, R.N., shall be placed on PROBATION for 24 months of actual nursing practice subject to the following terms and conditions:
  - a. The period of probation shall begin on the date that this Order is entered and shall end at such time as Mr. Addair has completed 24 months of active employment as a professional nurse. The license of Michael S. Addair, R.N. shall be reinstated without restriction at the completion of the probationary period without a hearing unless there is a pending investigation or unresolved allegation involving a violation of law, regulation or any term or condition of probation. In that event, the period of probation shall be continued indefinitely or until such time as the Board makes a case decision in accordance with the Administrative Process Act, § 2.2-4000 et seq. and § 54.1-2400.9 et seq. of the Code.
  - b. Mr. Addair shall inform the Board in writing within ten (10) days of the date he begins nursing practice, or changes employment, or if any interruption in nursing practice occurs. Additionally, Mr. Addair shall provide the name and address of each employer to the Board.

c. Mr. Addair shall inform his current nursing employer and each future nursing employer that the Board has placed him on probation and shall provide each employer with a complete copy of this Order. If Mr. Addair is employed through a staffing agency, he shall inform his supervisor in each facility where assigned that he is on probation.

d. Mr. Addair shall have an evaluation by a chemical dependency specialist satisfactory to the Board and shall have a written report of the evaluation, including a diagnosis, a recommended course of therapy, and a prognosis sent to the Board within forty-five (45) days from the date this Order is entered. Mr. Addair shall comply with any recommendations of the specialist. If therapy is recommended, written quarterly progress reports by the therapist shall be sent to the Board by the last day of the months of March, June, September and December until Mr. Addair is discharged from therapy. Mr. Addair shall direct the therapist to notify the Board if she/he withdraws from the treatment program before being officially discharged by the therapist.

e. Mr. Addair shall not use alcohol or any other mood altering chemical, except as prescribed by a health care practitioner with whom he has a bona fide practitioner/patient relationship and for accepted medicinal or therapeutic purposes. Should he be prescribed any Schedule II-V controlled medication, a written report from the prescribing practitioner shall be provided to the Board within ten (10) days of the date the medication is prescribed.

f. Mr. Addair shall be required to have one supervised, unannounced random drug screen a month, from a Board-approved testing entity, which include(s) testing for alcohol and the following drugs of choice: fentanyl and opiates. Mr. Addair shall ensure that the first set of results are received by the Board no later than sixty (60) days from the date this Order is entered. Subsequent results must be received quarterly by the last day of the months of March, June, September and December until January 2010. The Board shall be notified immediately in writing of any positive results or if Mr. Addair

refuses to give a specimen for analysis as required by this Order. All positive results must be confirmed by a confirmatory drug test, the results of which are to be sent to the Board immediately.

g. Mr. Addair shall provide all current and future treating practitioners with a complete copy of this Order and shall execute an Authorization for Disclosure of Information form providing for unrestricted communication between the Board and any court-appointed probation or parole officers and any consultants designated by the Board.

h. Mr. Addair shall submit quarterly “Self-Reports” which include a current address, telephone number, and verification of all current employment. These reports shall also include any changes in employment status. The first report must be received in the Board office no later than sixty (60) days from the date this Order is entered. Subsequent reports must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends.

i. Mr. Addair shall return all copies of her license to practice as a professional nurse to the Board office within ten (10) days of the date of entry of this Order along with a payment of a fee of \$5.00. Upon receipt, the Board shall issue a new license marked “Valid in Virginia Only; Probation with Terms.”

j. Mr. Addair shall conduct himself as a professional nurse in compliance with the requirements of Title 54.1, Chapter 30 of the Code, and the Board of Nursing Regulations.

k. Any violation of the terms and conditions stated in this Order shall be reason for revoking the nursing license of Michael S. Addair and an administrative proceeding shall be held to decide whether his license shall be revoked.

2. This Order is applicable to Mr. Addair’s multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. For the duration of this Order, Mr. Addair 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.

This Order is subject to appeal to the Board. If Mr. Addair desires a formal administrative hearing before the Board pursuant to §§ 2.2-4020 and 2.2-4021 of the Code, he must notify Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233, in writing, within thirty-three (33) days from the date of service of this Order. Upon the filing of a request for the hearing with the Executive Director, this Order shall be vacated.

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.

FOR THE BOARD

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

Entered: February 13, 2009

Certificate of Service

I hereby certify that a true copy of the foregoing Order was mailed this day to Michael S. Addair, R.N., at Route 1, Box 235 A, Honaker, Virginia 24260, and R. Wayne Austin, Esquire, at 189 Valley Street, NE, Abingdon, Virginia 24210.

*Jay P. Power*

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

*February 13, 2009*  
DATE