

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: CYNTHIA MCCAFFREY, R.N.
 License No.: 0001-107629**

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 June 26, 2007, in Henrico County, Virginia. Ms. McCaffrey was present and was not represented by legal counsel. Janet Younger, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On July 18, 2007, the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. McCaffrey 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. Cynthia McCaffrey, R.N. was issued License Number 0001-107629 to practice professional nursing in Virginia on August 17, 1987. Said license is set to expire on November 30, 2007.
2. By letter dated May 7, 2007, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. McCaffrey notifying her that an informal conference would be held on June 26, 2007. The Notice was sent by certified and first class mail to 106 Donovan Court, Yorktown, Virginia, 23693, the address of record on file with the Board of Nursing.
3. Ms. McCaffrey was placed on indefinite probation for a period of not less than two

years by Order of the Board entered on December 22, 1992, based on her diversion, adulteration, and self-administration of controlled substances. Ms. McCaffrey complied with her terms of probation and was issued an unrestricted license by Order of the Board entered January 18, 1996.

4. By her own admission, on or about January 16, 2007, during the course of Ms. McCaffrey's employment at Mary Immaculate Hospital, Newport News, Virginia, Ms. McCaffrey cut open a fentanyl patch that had been prescribed for Patient A, bled the medication onto her tongue, and placed the altered patch on Patient A. Fentanyl is a schedule II controlled substance. Ms. McCaffrey was terminated as a result of this incident.

5. A urine drug screen performed on January 16, 2007, was positive for fentanyl (for which Ms. McCaffrey had a valid prescription) as well as for oxycodone and oxymorphone (schedule II controlled substances), for which she did not have valid prescriptions.

6. Ms. McCaffrey has had multiple surgeries on her back and suffers from chronic pain. She takes medication to manage this pain.

7. Ms. McCaffrey elected not to participate in the Health Practitioners' Intervention Program ("HPIP") because she was advised she could not participate in the HPIP while taking medications for pain management.

8. Ms. McCaffrey's date of sobriety is January 17, 2007. She went to 90 meetings in 90 days at that time. She currently attends three AA meetings a week, and attends weekly therapy sessions. Prior to her relapse in January, 2007, Ms. McCaffrey stated that she had almost 15 years of sobriety.

9. Ms. McCaffrey is currently employed as a classroom-only instructor at Medical Careers Institute.

CONCLUSIONS OF LAW

The Board concludes that:

1. Finding of Fact # 4 constitutes a violation of § 54.1-3007(2), (5), and (6) of the Code of Virginia (1950), as amended (“Code”) and 18 VAC 90-20-300(A)(2)(c) of the Board of Nursing Regulations.
2. Finding of Fact # 5 constitutes a violation of § 54.1-3007(6) of the Code.

ORDER

WHEREFORE, it is hereby ORDERED that Cynthia McCaffrey, R.N., be, REPRIMANDED and placed on INDEFINITE PROBATION for a period of not less than four years of actual nursing practice and subject to the following terms and conditions:

1. The period of probation shall begin on the date that this Order is entered and shall continue indefinitely. After four years of active employment as a professional nurse, Ms. McCaffrey may request that the Board end this probation.
2. Ms. McCaffrey shall inform the Board in writing within ten (10) days of the date she begins nursing practice, or changes employment, or if any interruption in nursing practice occurs. Additionally, Ms. McCaffrey shall provide the name and address of each employer to the Board.
3. Ms. McCaffrey shall inform her current nursing employer and each future nursing employer that the Board has placed her on probation and shall provide each employer with a complete copy of this Order. If Ms. McCaffrey is employed through a staffing agency, she shall inform her supervisor in each facility where assigned that she is on probation.
4. Performance Evaluations shall be provided, at the direction of Ms. McCaffrey, by all nursing employer(s), as provided by the Compliance Division.

5. Ms. McCaffrey shall practice nursing only in a non-direct care, supervised employment setting satisfactory to the Board for the first four years after being placed on probation. This employment setting shall provide on-site supervision by a professional nurse, who works the same shift, works on the same level of the building, and holds an unrestricted license. For all current nursing employment, and before beginning or changing nursing employment during this period, Ms. McCaffrey shall have current and all prospective employers provide a written description of the employment setting to the Board office for approval.

6. Ms. McCaffrey shall have an evaluation by a mental health /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. Ms. McCaffrey 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 Ms. McCaffrey is discharged from therapy. Ms. McCaffrey shall direct the therapist to notify the Board if she withdraws from the treatment program before being officially discharged by the therapist.

7. Ms. McCaffrey shall be required to have one supervised, unannounced random drug screen(s) a quarter, from a Board approved testing entity, which include(s) testing for alcohol and the following drugs of choice: non-prescribed opioids. Ms. McCaffrey 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 two years from the date this Order is entered. The Board shall be notified immediately in writing of any positive results or if Ms. McCaffrey 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.

8. Ms. McCaffrey shall participate in Alcoholics Anonymous, Caduceus recovery support groups, or other groups acceptable to the Board and shall have written evidence of attendance by a sponsor or contact person sent to the Board monthly by the last day of the month, until one year from the date this Order is entered.

9. Ms. McCaffrey 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.

10. Ms. McCaffrey 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.

11. Ms. McCaffrey 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 \$5.00. Upon receipt, the Board shall issue a new license marked "Valid in Virginia Only; Probation with Terms."

12. Ms. McCaffrey shall conduct herself as a professional nurse in compliance with the requirements of Title 54.1, Chapter 30 of the Code of Virginia (1950), as amended, and the Board of Nursing Regulations.

13. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Ms. McCaffrey and an administrative proceeding shall be held to decide whether her license shall be revoked.

14. This order shall be applicable to Ms. McCaffrey's multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. It is further ordered that for the duration of this order, Ms. McCaffrey may 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 she 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 Ms. McCaffrey desires a formal administrative hearing before the Board pursuant to §§ 2.2-4020 and 2.2-4021 of the Code, she must notify Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 West Broad Street, Richmond, Virginia 23230, 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 Douglas
Jay P. Douglas, R.N., M.S.M., C.S.A.C.
Executive Director
Board of Nursing

Entered: August 3rd, 2007

Certificate of Service

I hereby certify that a true copy of the foregoing Order was mailed this day to Cynthia McCaffrey, at 106 Donovan Court, Yorktown, Virginia, 23693.

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

August 3rd, 2007
DATE

C. True Copy
By [Signature] 8/3/07
Virginia Board of Nursing