

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: LINDA THURBY-HAY, R.N., C.N.S.

License No.: 0001-080940

Registration No.: 0015-000433

ORDER

Pursuant to §§ 2.2-4020, 54.1-110 and 54.1-2400(11) of the Code of Virginia (1950), as amended ("Code"), a formal administrative hearing was held before a panel of the Board of Nursing ("Board") on November 18, 2015, in Henrico County, Virginia, to inquire into evidence that Linda Thurby-Hay, R.N., C.N.S., may have violated certain laws governing the practice of nursing in Virginia. The case was presented by Emily E. Tatum, Adjudication Specialist, Administrative Proceedings Division. Charis A. Mitchell, Assistant Attorney General, was present as legal counsel for the Board. Ms. Thurby-Hay was present and was represented by Gerald C. Canaan, II, Esquire, and Meredith M. Brebner, Esquire. 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. Linda Thurby-Hay, R.N., C.N.S., was issued License No. 0001-080940 to practice professional nursing in the Commonwealth of Virginia on May 1, 1981. She was also issued Registration No. 0015-000433 to practice as a clinical nurse specialist on February 10, 1995. Said license and registration are set to expire on October 31, 2017. Ms. Thurby-Hay's primary state of residence is Virginia.

2. During the course of Ms. Thurby-Hay's employment with MCV Hospitals of the VCU Health System, Richmond, Virginia:

a. On May 21, 2014, Ms. Thurby-Hay decreased the dose of Metformin (Schedule VI) prescribed to Patient A without consulting a physician in advance or obtaining a verbal order.

b. On June 4, 2014, Ms. Thurby-Hay offered several options to Patient B to manage the patient's blood sugar, including adjusting her insulin dosage/pump setting without consulting the prescribing physician in advance, or notifying the physician, and without documenting the change in the medical record.

c. On June 4, 2014, Ms. Thurby-Hay saw Patient C independently and failed to complete and document a thorough and accurate medication record.

3. The basis for Ms. Thurby-Hay's Virginia registration and practice as a CNS in Adult Health is the specialty certification by the American Nurses Credentialing Center, not the scope and standards of practice of the American Association of Diabetes Educators ("AADE"), which Ms. Thurby Hay relied upon at the hearing.

4. At the hearing, Ms. Thurby-Hay first testified that reconciliation of medications is not her responsibility at VCU, and that she did not have computer system access to do so. However, she later stated that she, as a nurse, was responsible for ensuring the accuracy of a patient note.

5. Ms. Thurby-Hay attributed the adjustment of medications in Finding of Fact Number 2 to be part of her coaching as a CNS. However, even the definition of coaching, from the Executive Summary of the Clinical Nurse Specialist Core Competencies Task Force 2006-2008, which Ms. Thurby Hay relied upon at the hearing, was the "skillful guidance and teaching to advance the care of patients, families, groups of patients, and the profession of nursing." The definition does not include prescribing.

6. Ms. Thurby-Hay also told the Board that she changed Patient A's medication dosage in order to follow the attending physician's already existing patient care plan. Nonetheless, she and the physicians who testified at the hearing stated that there were no written protocols or standing orders for titration of Metformin.

7. Upon being questioned, Ms. Thurby-Hay agreed that changing medication is prescribing medication.

CONCLUSIONS OF LAW

1. Finding of Fact Nos. 2(a) and 2(b) constitute a violation of § 54.1-3007(2), (5), and (8) of the Code and 18 VAC 90-20-290 and 18 VAC 90-20-300(A)(2)(a) and (g) of the Regulations Governing the Practice of Nursing.

2. Finding of Fact No. 2(c) constitutes a violation of § 54.1-3007(5).

ORDER

WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS as follows:

1. Linda Thurby-Hay, R.N., C.N.S., shall be placed on PROBATION for a period of one year of active practice as a professional nurse and as a clinical nurse specialist, 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 Ms. Thurby-Hay has completed 12 months of active practice in employment as a professional nurse and a clinical nurse specialist. The license and registration of Ms. Thurby-Hay shall be reinstated without restriction at the completion of the probationary period without an administrative proceeding 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) of the Code.

b. Performance Evaluations shall be provided to the Board, at the direction of Ms. Thurby-Hay, by all practice employers, using the forms provided by Compliance and available on the Board's website.

c. Ms. Thurby-Hay shall practice only in a structured and supervised practice employment setting satisfactory to the Board for the entire term of her probation. This employment setting shall provide on-site supervision by a professional nurse who works the same shift and works on the same level of the building and holds an unrestricted license. For all current practice employment, and before beginning or changing practice employment during this period, Ms. Thurby-Hay shall have current and all prospective practice employers provide a written description of the employment setting to the Board office for approval. Ms. Thurby-Hay's current employment as a nurse clinician with VCU Health Systems is approved.

d. Ms. Thurby-Hay shall return all copies of her license to practice as a professional nurse and her registration to practice as a clinical nurse specialist to the Board office within ten days of the date of entry of this Order, along with a payment of a duplicate license fee as specified in the regulations governing nursing. Upon receipt, the Board shall issue a replacement professional nurse license marked "Valid in Virginia Only; Probation with Terms" and a replacement clinical nurse specialist registration marked "Probation with Terms."

d. Written quarterly reports are required by this Order and, unless otherwise specified, shall be sent to Compliance at the Board offices with the first report(s) received in the Board office no later than 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. Many of the required report forms are available on the Board's website for your convenience.

e. Ms. Thurby-Hay shall inform the Board in writing within ten days of the date any practice employment begins, changes, is interrupted, or ends. Additionally, Ms. Thurby-Hay shall provide a contact name, address, and phone number for each practice employer to the Board.

f. Ms. Thurby-Hay shall inform all current and future practice employers that the Board has placed her on probation and she shall provide each practice employer with a complete copy

of this Order. If Ms. Thurby-Hay is employed through a staffing agency, she shall inform her supervisor in each facility that she is on probation.

g. Ms. Thurby-Hay 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, Compliance, and any treatment providers, court-appointed probation or parole officers, and/or any consultants designated by the Board, if applicable.

h. Ms. Thurby-Hay shall submit "Self-Reports" which include a current address, telephone number, and verification of any and all current practice employment. These reports shall also include any changes in practice employment status. Self-Reports shall be submitted whether Ms. Thurby-Hay has current practice employment or not.

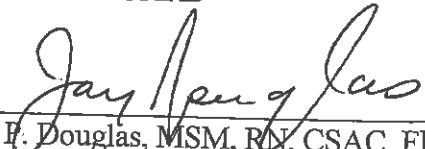
2. Ms. Thurby-Hay shall maintain a course of conduct in her capacity as a professional nurse and as a clinical nurse specialist commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

3. 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 and registration of Linda Thurby-Hay, R.N., C.N.S., and an administrative proceeding shall be convened to determine whether such license shall be suspended or revoked.

4. This order shall be applicable to Ms. Thurby-Hay's multistate licensure privilege, if any, to practice professional nursing. For the duration of this Order, Ms. Thurby-Hay shall not work outside the Commonwealth of Virginia pursuant to a multistate licensure privilege without the express written permission of the Virginia Board of Nursing and the Board of Nursing in the party state where she wishes to work. Any request for out of state employment shall be directed, in writing, to the Executive Director of the Board.

Pursuant to §§ 2.2-4023 and 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 public record and shall be made available for public inspection or copying on request.

FOR THE BOARD



Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director
Virginia Board of Nursing



ENTERED

NOTICE OF RIGHT TO APPEAL

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 days from the date you are served with this Order in which to appeal this decision by filing a Notice of Appeal with Jay P. Douglas, MSM, RN, CSAC, FRE, Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. The service date shall be defined as the date you actually received this decision or the date it was mailed to you, whichever occurred first. In the event this decision is served upon you by mail, three days are added to that period.

Certified True Copy

By 

Virginia Board Of Nursing