

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: VIRGINIA K. MITCHELL, L.P.N.
License No.: 0002-074980**

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 August 20, 2015, in Henrico County, Virginia. Ms. Mitchell was not present nor was she represented by legal counsel. Jodi Power, R.N., J.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On November 18, 2015, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Mitchell 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. Virginia K. Mitchell, L.P.N. was issued License No. 0002-074980 to practice practical nursing in Virginia on November 30, 2006. The license is scheduled to expire on December 31, 2016. On September 23, 2014, the Board of Nursing issued an Order which reprimanded Ms. Mitchell for instructing a C.N.A. to administer a medication by intramuscular injection without a physician's order. Ms. Mitchell's primary state of residence is Virginia. Ms. Mitchell held Certificate No. 1401-094720 to practice as a certified nurse aide from 2002 until its expiration in 2008.

2. By letter dated July 20, 2015, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Mitchell notifying her that an informal conference would be held on August 20, 2015.

The Notice was sent by certified and first class mail to 126 Painter Street, Tazewell, Virginia 24651, the address of record on file with the Board of Nursing. The certified mail receipt was signed and returned to the Board office. The Notice sent by first class mail was not returned to the Board office. The Agency Subordinate concluded that adequate notice was provided to Ms. Mitchell, and the informal conference proceeded in her absence.

3. During the course of her employment with Kissito Healthcare Bland County, Bastian, Virginia (“Kissito Healthcare”), on November 28, 2014:

a. Ms. Mitchell diverted a 30-tablet card of Norco (hydrocodone/acetaminophen 10/325 mg, C-II) belonging to a resident and removed the corresponding narcotic count sheet. An unsigned copy of the shipping log related to the delivery of the Norco card was found in the shredder box, but the pharmacy had a copy of the shipping log signed by Ms. Mitchell.

b. In a for-cause urine drug screen related to the missing Norco card, Ms. Mitchell tested positive for marijuana and for hydrocodone, for which she did not have a current prescription. Ms. Mitchell claimed that she had ingested hydrocodone that morning and marijuana a few weeks prior, but gave conflicting statements about where she had obtained the hydrocodone.

4. As a result of this incident, Ms. Mitchell’s employment with Kissito Healthcare was terminated effective November 28, 2014.

5. During the course of her employment with Heritage Hall Tazewell, on April 17, 2015, Ms. Mitchell diverted 18 tablets of Percocet (hydrocodone/ acetaminophen 10/325 mg, C-II) belonging to a resident and removed the corresponding count pages from the narcotic book to prevent discovery.

6. Ms. Mitchell’s employment with Heritage Hall Tazewell was terminated on April 19, 2014 for refusing to submit to a urine drug screen as part of the investigation related to the missing Percocet.

7. On her application for employment with Kissito Healthcare dated February 7, 2014:

a. Ms. Mitchell wrote that she was still employed at Pheasant Ridge Nursing and Rehabilitation, Roanoke, Virginia (“Pheasant Ridge”), when in fact, her employment with Pheasant Ridge had been terminated on November 20, 2013 for violating company policy in that she instructed and allowed a C.N.A. to administer an intramuscular injection of Phenergan, for which there was no physician’s order.

b. Ms. Mitchell wrote “better job” as her reason for leaving Salem Healthcare and Rehabilitation, Salem, Virginia (“Salem Healthcare”), when in fact, her employment with Salem Healthcare was terminated on July 11, 2011 for suspected drug diversion and failure to report for a urine drug screen.

c. Ms. Mitchell wrote “better job” as her reason for leaving Avante at Roanoke, Roanoke, Virginia, when in fact, her employment was terminated in 2007 for a “no call, no show.”

8. On her application for employment with Heritage Hall Tazewell, Tazewell, Virginia dated January 13, 2015:

a. Ms. Mitchell wrote “not enough hours” as her reason for leaving Kissito Healthcare, when, in fact, her employment was terminated on November 28, 2014 as a result of a failed urine drug screen after suspected drug diversion.

b. Ms. Mitchell wrote “moved back to Tazewell” as her reason for leaving Pheasant Ridge, when in fact, her employment with Pheasant Ridge had been terminated on November 20, 2013 for violating company policy as referenced above.

c. Ms. Mitchell wrote “conflict of interest” as her reason for leaving Salem Healthcare, when in fact, her employment with Salem Healthcare was terminated on July 11, 2011 for suspected drug diversion as referenced above.

d. Ms. Mitchell wrote “conflict of interest” as her reason for leaving Avante at

Roanoke, when in fact, her employment with Avante at Roanoke was terminated in 2007 for a “no call, no show.”

9. Between 2011 and 2013 Ms. Mitchell participated in the 23rd Judicial Circuit Drug Court program in Salem, Virginia, which included random urine drug screens and substance abuse counseling, as part of a deferred disposition of six felony counts of obtaining or attempting to obtain drugs by fraud or deceit. Ms. Mitchell pled *nolo contendere* to the felony counts on May 10, 2012. The cases were taken under advisement and eventually dismissed on January 15, 2014.

10. Although she spoke briefly to the investigator for the Department of Health Professions by phone on January 20, 2015 and denied diversion at Kissito Healthcare, Ms. Mitchell failed to respond to further contact attempts, failed to submit requested documentation, and failed to submit to a urine drug screen requested by the investigator.

11. Ms. Mitchell has had five terminations from nursing position within fewer than nine years of licensure. No information was provided on any current employment.

12. Ms. Mitchell has not enrolled in the Health Practitioners’ Monitoring Program.

CONCLUSIONS OF LAW

1. Finding of Fact No. 3(a) constitutes a violation of § 54.1-3007(2), (5), (6), and (8) of the Code and 18 VAC 90-20-300(A)(2)(c), (e), and (k) of the Regulations Governing the Practice of Nursing (“Regulations”).

2. Finding of Fact No. 3(b) constitutes a violation of § 54.1-3007(5) and (6) of the Code.

3. Finding of Fact No. 5 constitutes a violation of § 54.1-3007(2), (5), (6), and (8) of the Code and 18 VAC 90-20-300(A)(2)(c), (e), and (k) of the Regulations.

4. Findings of Fact Nos. 7 and 8 constitute a violation of § 54.1-3007(2) of the Code and 18 VAC 90-20-300(A)(2)(e) of the Regulations.

5. Finding of Fact No. 9 constitutes a violation of § 54.1-3007(6) of the Code.

ORDER

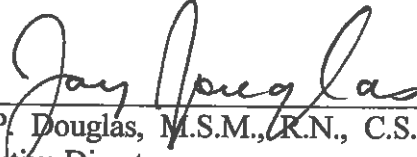
WHEREFORE, it is hereby ORDERED as follows:

1. License No. 0002-074980 of Virginia K. Mitchell, L.P.N. to practice practical nursing in the Commonwealth of Virginia is INDEFINITELY SUSPENDED.
2. The license will be recorded as suspended and no longer current.
3. At such time as Ms. Mitchell shall petition the Board for reinstatement of her license, an administrative proceeding will be convened to determine whether she is capable of resuming the safe and competent practice of practical nursing. Ms. Mitchell shall be responsible for any fees that may be required for the reinstatement and renewal of the license prior to issuance of the license to resume practice.
4. This suspension applies to any multistate privilege to practice practical nursing.

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. Mitchell failed to appear at the informal conference, this Order shall be considered final. Ms. Mitchell 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. Mitchell 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.

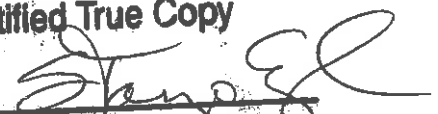
FOR THE BOARD



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

Entered: December 14th, 2015

Certified True Copy

By 
Virginia Board of Nursing