

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE: NICOLE R. HIRT, R.N. REINSTATEMENT APPLICANT**

**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 September 16, 2010, in Henrico County, Virginia, to receive and act upon Nicole R. Hirt's application for reinstatement of her license to practice professional nursing in Virginia, which was mandatorily suspended by Order of the Board entered May 5, 2010, and to inquire into evidence that Ms. Hirt may have violated certain laws and regulations governing professional nursing practice in Virginia. The case was presented by Cynthia E. Gaines, Adjudication Specialist, Administrative Proceedings Division. Howard M. Casway, Senior Assistant Attorney General, was present as legal counsel for the Board. Ms. Hirt was present and was not represented by legal counsel. 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. Nicole R. Hirt, R.N., was issued License No. 0001-217328 to practice professional nursing in the Commonwealth of Virginia on February 17, 2009. Said license was mandatorily suspended pursuant to § 54.1-2409 of the Code by Order of the Department of Health Professions entered on May 5, 2010. Ms. Hirt's primary state of residence is Virginia.
2. Ms. Hirt submitted an application for reinstatement of her license which was received by the Board on June 15, 2010.
3. On March 19, 2010, Ms. Hirt's license to practice professional nursing, issued by the Ohio

Board of Nursing (“Ohio Board”), was indefinitely suspended. This action was a result of Ms. Hirt’s positive urine drug screen on July 14, 2008, while employed with Salem Community Hospital (“Salem Community”), Salem, Ohio, which found morphine (C-II), meperidine (C-II) and normeperidine (C-II) for which Ms. Hirt did not have a valid prescription, and Ms. Hirt’s diversion of Demerol while on duty.

4. By her own admission, Ms. Hirt began abusing narcotic medication during the winter of 2007, and she diverted narcotic medication, between two to four times a week, from her employer Salem Community until she was caught on July 14, 2008.

5. On her application for licensure by endorsement to practice professional nursing received by the Board on February 10, 2009, Ms. Hirt answered “NO” to the question “Has your practice ever been the subject of an investigation by a licensing authority?” when, in fact, by her own admission, Ms. Hirt was aware of an investigation by the Ohio Board at the time she submitted her application for licensure by endorsement to the Virginia Board of Nursing.

6. Ms. Hirt testified that she knowingly falsified her application for licensure by endorsement to practice professional nursing. Ms. Hirt maintains an active professional nursing license in Pennsylvania and expired licenses in Florida and the District of Columbia.

7. Ms. Hirt signed a Participation Contract with the Health Practitioners’ Monitoring Program (“HPMP”) on July 26, 2010, and is reported to be in compliance with her contract as of September 8, 2010. Ms. Hirt is currently attending an intensive outpatient substance abuse program at Harrison House, Annandale, Virginia. Ms. Hirt reports a sobriety date as being the end of July 2008.

8. Ms. Hirt testified that she is currently employed for a home health agency in a non-nursing capacity.

#### CONCLUSIONS OF LAW

The Board concludes that:

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(7) of the Code.

2. Finding of Fact No. 4 constitutes a violation of § 54.1-3007(6) of the Code.
3. Finding of Fact No. 5 constitutes a violation of § 54.1-3007(1) of the Code and 18 VAC 90-20-300(A)(1)(b) of the Regulations Governing the Practice of Nursing
4. Ms. Hirt is properly enrolled in the HPMP.

**ORDER**

WHEREFORE, the Virginia Board of Nursing, by affirmative vote of at least three-fourths of the members of the Board at the hearing, effective upon entry of this Order, hereby ORDERS that:

1. License No. 0001-217328 issued to Nicole R. Hirt to practice professional nursing in the Commonwealth of Virginia is hereby REINSTATED.
2. License No. 0001-217328 issued to Nicole R. Hirt is hereby INDEFINITELY SUSPENDED. Said suspension shall be STAYED upon proof that Ms. Hirt has entered into a Recovery Monitoring Contract with the HPMP and upon the condition that she remain compliant with the terms of a Recovery Monitoring Contract with the HPMP and the following terms and conditions:
  - a. Ms. Hirt shall comply with all terms and conditions for the period specified by the HPMP.
  - b. Any violation of the terms and conditions stated in this Order shall be reason for summarily rescinding the stay of indefinite suspension of the license of Ms. Hirt, and an administrative proceeding shall be held to decide whether her license shall be revoked. The stay of indefinite suspension may be summarily rescinded at such time the Board is notified that:
    - i. Ms. Hirt is not in compliance with the terms and conditions specified by the HPMP, or has been terminated from participation in the HPMP, or
    - ii. There is a pending investigation or unresolved allegation involving a violation of law, regulation or any term or condition of this Order.
3. Upon receipt of evidence of Ms. Hirt's participation in and successful completion of the terms

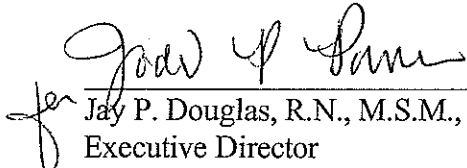
specified by the HPMP, the Committee, at its discretion, may waive Ms. Hirt's appearance before the Committee, and conduct an administrative review of this matter, at which time she may be issued an unrestricted license.

4. This Order shall be applicable to Ms. Hirt'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. Hirt 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.


5. Ms. Hirt 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.

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

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

September 28, 2010  
ENTERED

**Certified True Copy**  
By   
**Virginia Board of Nursing**

**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, R.N., M.S.M., C.S.A.C., 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.