

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE:**

**KIMBERLY GILLY, R.N.  
a/k/a KIMBERLY INMAN**

**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 March 9, 2010, in Henrico County, Virginia. Kimberly Gilly, R.N., was present and was not represented by legal counsel. Janet B. Younger, Ph.D, R.N., P.N.P., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On May 19, 2010, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Gilly 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. Kimberly Gilly, R.N., was issued License No. 0001-161422 to practice as a professional nurse in Virginia on September 28, 1998. The license is current and is set to expire on April 30, 2010.
2. By letter dated February 17, 2010, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Gilly notifying her that an informal conference would be held on March 9, 2010. The Notice was sent by certified and first class mail to 1711 Artesian Well Road, Big Stone Gap, Virginia 24219, the address of record on file with the Board of Nursing at that time.
3. Between May 31, 2009, and August 30, 2009, during the course of her employment with Lonesome Pine Hospital, Big Stone Gap, Virginia, Ms. Gilly diverted 49 tablets of Percocet

(oxycodone/acetaminophen, Schedule II), three 5mg syringes of IV Morphine (morphine sulfate, Schedule II), two tablets of Nubain (nalbuphine HCl, Schedule VI) and one tablet of Lortab (hydrocodone, Schedule III) for her own personal and unauthorized use under the names of various patients that had either been discharged, had PRN orders and did not request pain medicine, or had previously been prescribed IV medications and were no longer receiving IV medications. A subsequent reasonable suspicion urine drug screen collected on September 2, 2009, was positive for oxycodone, for which she did not have a valid prescription. Staff also reported that Ms. Gilly had not been acting like herself, was taking frequent breaks in her car, was not completing her work, and had become very disorganized. Ms. Gilly's employment was terminated on September 10, 2009, as a result of her positive urine drug screen and evidence of drug diversion.

4. At the informal conference, Ms. Gilly denied diversion but claimed all the issues at Lonesome Pine Hospital related to poor documentation. She stated that at the time of the incident, she was taking three to four hydrocodone tablets a day, by prescription, for a least a year to treat a "snapping scapula." She stated that since she is no longer engaged in strenuous employment, she has not needed to continue to take hydrocodone. However, she indicated she was willing to enter the Health Practitioners' Monitoring Program ("HPMP").

5. Ms. Gilly stated that she began employment with Holston Medical Group, Kingsport, Tennessee, in February 2010, but was dismissed when her employer became aware of her pending Board action.

#### **CONCLUSIONS OF LAW**

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

**ORDER**

WHEREFORE, it is hereby ORDERED as follows:

1. License No. 0001-161422 of Kimberly Gilly (Inman) is INDEFINITELY SUSPENDED.
2. The license will be recorded as suspended and no longer current.
3. At such time as Ms. Gilly 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 professional nursing. Ms. Gilly 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 professional nursing.
5. This suspension shall be STAYED upon proof of entry into the HPMP pursuant to Chapter 25.1 of Title 54.1 of the Code and 18 VAC 76-10-10 *et seq.* of the Regulations Governing the HPMP. At such time, the indefinite suspension shall be STAYED and the following terms and conditions shall apply:
  - a. Ms. Gilly 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. Gilly, and an administrative proceeding shall be held to determine 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. Gilly is not in compliance with the terms and conditions specified by the HPMP;

- ii. Ms. Gilly's participation in the HPMP has been terminated;
- iii. There is a pending investigation or unresolved allegation against Ms.

Gilly involving a violation of law, regulation, or any term or condition of this order.

6 Upon receipt of evidence of Ms. Gilly's participation and successful completion of the HPMP, the Board, at its discretion, may waive Ms. Gilly's appearance before a Committee and conduct an administrative review of this matter, at which time she may be issued an unrestricted license.

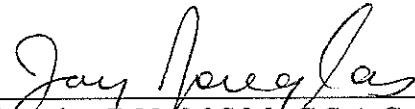
7. This Order is applicable to Ms. Gilly's multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. For the duration of this Order, Ms. Gilly shall not work outside of the Commonwealth of Virginia pursuant to a multistate licensure privilege without the written permission of the Virginia Board of Nursing and the Board of Nursing in the party state where she wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

8. Ms. Gilly 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.

This Order is subject to appeal to the Board. If Ms. Gilly 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, 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, R.N., M.S.M., C.S.A.C.  
Executive Director, Virginia Board of Nursing

Entered: May 27<sup>TH</sup>, 2010