

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE:**

**NICOLE NEWENHOUSE, R.N.**

**CONSENT ORDER**

The Virginia Board of Nursing ("Board") and Nicole Newenhouse, R.N., as evidenced by her signature hereto, enter into the following Consent Order affecting Ms. Newenhouse's license to practice professional nursing in Virginia.

The Board adopts the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1. Nicole Newenhouse, R.N., was issued License No. 0001-212667 to practice professional nursing in Virginia on June 9, 2008. Said license is set to expire on June 30, 2012. Ms. Newenhouse's primary state of residence is Virginia.
2. On May 26, 2010, Ms. Newenhouse's employment with the Virginia Hospital Center, Arlington, Virginia was terminated for suspected diversion after an internal audit report indicated excessive administration of opiates to patients.
3. On May 26, 2010, in an employer-sponsored blood test given for cause, Ms. Newenhouse tested positive for fentanyl (Schedule I) and had no valid prescription for any such medication.
4. In an interview with an investigator from the Department of Health Professions ("DHP"), on June 3, 2010, and June 8, 2010, Ms. Newenhouse stated the following:
  - (a) In December 2009, in the course of her employment with the Virginia Hospital Center, she took a Percocet (oxycodone/acetaminophen – Schedule II) tablet from a patient who had an order for Percocet.

(b) She regularly took the wasted drugs from the medications prescribed to her patients. The drugs she took included morphine (Schedule II), fentanyl (Schedule I), Percocet (oxycodone/acetaminophen – Schedule II), and Ativan (lorazepam – Schedule IV).

(c) When she removed medications from the Pyxis, she consumed them while she was on duty.

(d) She took two fentanyl drips home for her own personal use.

5. On June 8, 2010, Ms. Newenhouse executed a Participation Contract with the Virginia Health Practitioners' Monitoring Program ("HPMP"), in which she acknowledged that her chemical abuse and/or mental illness, and/or physical illness may impair her ability to safely practice nursing.

6. In interviews with the DHP investigator, Virginia Hospital Center administrators, Ms. Newenhouse's former shift supervisor, and her former co-workers, stated that they never observed Ms. Newenhouse to be impaired on-duty. In addition, they stated that Ms. Newenhouse could be trusted and relied on; and that Ms. Newenhouse was a very competent nurse. Virginia Hospital Center administrators also stated that no patient was harmed as a result of Ms. Newenhouse's actions.

#### **CONCLUSIONS OF LAW**

1. Findings of Fact Number 4(a), 4(b), 4(c) and 4(d) constitute 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) and (e) of the Regulations Governing the Practice of Nursing.

2. Findings of Fact Number 3 and 5 constitutes a violation of §54.1-3007 (6) of the Code.

**CONSENT**

Nicole Newenhouse, R.N., by affixing her signature hereon, agrees to the following:

1. Ms. Newenhouse has been advised to seek advice of counsel prior to signing this document;
2. Ms. Newenhouse acknowledges that without her consent, no legal action can be taken against her license to practice professional nursing except pursuant to the Virginia Administrative Process Act, §2.2-4000(A) *et seq.* of the Code;
3. Ms. Newenhouse acknowledges that she has the following rights, among others: the right to an informal fact finding conference before the Board, the right to reasonable notice of said hearing, the right to representation by counsel, and the right to cross-examine witnesses against her;
4. Ms. Newenhouse waives all such right to an informal conference;
5. Ms. Newenhouse admits to the Findings of Fact contained herein and waives her right to contest such Findings of Fact in any subsequent proceeding before the Board;
6. Ms. Newenhouse consents to the entry of the following Order affecting her right to practice professional nursing in Virginia.

**ORDER**

WHEREFORE, on the basis of the foregoing, the Virginia Board of Nursing, effective upon entry of this Order, and in lieu of further proceedings, hereby ORDERS as follows:

1. The Board shall TAKE NO ACTION contingent on the following conditions:
  - a. Ms. Newenhouse shall comply with all terms and conditions for the period specified by the Health Practitioners' Monitoring Program ("HPMP").
  - b. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Ms. Newenhouse, and an administrative proceeding shall be held to decide whether her licenses should be revoked. Ms. Newenhouse shall be noticed to appear before the Board at such time as the Board is notified that:

i. Ms. Newenhouse is not in compliance with the terms and conditions of the HPMP, or has been terminated from participation in the HPMP;

ii. There is a pending investigation or unresolved allegation against Ms. Newenhouse involving a violation of law or regulation or any term or condition of this Order; or

iii. Ms. Newenhouse has successfully completed the above-referenced period of participation in the HPMP. However, upon receipt of Ms. Newenhouse's participation in and compliance with the HPMP, the Board, at its discretion, may waive Ms. Newenhouse's appearance before the Board and conduct an administrative review of this matter.

2. This Order is applicable to Ms. Newenhouse's multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. For the duration of this Order, Ms. Newenhouse 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 Ms. Newenhouse wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

3. Ms. Newenhouse 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 the 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 upon request.

FOR THE BOARD

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

ENTERED: February 1, 2011

SEEN AND AGREED TO:

Nicole Newenhouse RN  
Nicole Newenhouse, R.N.

**Certified True Copy**

By Jamara Jarner  
**Virginia Board of Nursing**

COMMONWEALTH OF VIRGINIA,  
COUNTY/CITY OF Arlington, TO WIT:

Subscribed and sworn to before me, Kathleen A Harrington, a Notary Public, the 25 day of Jan, 2011.

My commission expires 4/30/2011  
Registration Number 334906

Kathleen A. Harrington  
NOTARY PUBLIC

