

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

KELLY S. MYERS, R.N.

CONSENT ORDER

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

FINDINGS OF FACT

1. Kelly S. Myers, R.N., was issued License No. 0001-219005 to practice professional nursing by the Virginia Board of Nursing on June 18, 2009. Said license is set to expire on September 30, 2012. Her primary state of residence is Virginia.
2. During the course of her employment as a professional nurse at Carilion Roanoke Memorial Hospital, Roanoke, Virginia, between October 2010 and January 13, 2011, Ms. Myers diverted multiple quantities of narcotic medication for her personal and unauthorized use. Ms. Myers accomplished this diversion by removing the medication from a Pyxis machine under the name of a patient and failing to record dispensing the medication to the patient. When confronted, she admitted to the diversion. As a result, she was terminated from her employment.
3. Ms. Myers admitted that she has a problem with both narcotics and alcohol. While under treatment at New River Valley Community Services Board, Blacksburg, Virginia ("NRV CSB"), she was diagnosed with opioid and alcohol dependence.
4. On January 25, 2010, Ms. Myers entered into a Participation Contract with the Health Practitioners' Monitoring Program ("HPMP") and she entered into a first Recovery Monitoring Contract

(“RMC”) on March 22, 2010, and a second RMC on April 22, 2010. The RMC required her to attend three 12-Step Program Meetings and two health professional recovery group meetings a month. Further, she was to have regular drug screens and weekly meetings at the NRV CSB.

5. On August 13, 2010, Ms. Myers was placed on pre-dismissal status by the HPMP for two positive screens for alcohol, one on May 4, 2010 and a second on July 28, 2010. Ms. Myers self reported the first relapse.

6. Since the second relapse, she has been in compliance with the terms and conditions of her HPMP RMC.

CONCLUSIONS OF LAW

The Board concludes that:

1. Finding of Fact No. 2 constitutes a violation of § 54.1-3007(2) and (5) of the Code of Virginia (1950), as amended (“Code”), and 18 VAC 90-20-300(2)(c) and (e) of the Regulations Governing the Practice of Nursing.
2. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(5) and (6) of the Code.

CONSENT

Kelly S. Myers, R.N., by affixing her signature hereon, agrees to the following:

1. She has been advised to seek advice of counsel prior to signing this document;
2. She acknowledges that without her consent, no legal action can be taken against her except pursuant to the Virginia Administrative Process Act, § 2.2-4000(A) *et seq.* of the Code;
3. She 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. She waives all such right to an informal conference;
5. She neither admits nor denies the Findings of Fact and Conclusions of Law contained herein but waives her right to contest such Findings of Fact and Conclusions of Law in any subsequent proceeding before the Board;
6. She 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 at this time contingent on the following conditions:
 - a. Kelly S. Myers, R.N., shall comply with all terms and conditions of the HPMP for the period specified by the HPMP.
 - b. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Ms. Myers, and an administrative proceeding shall be held to determine whether her license shall be revoked. Ms. Myers shall be noticed to appear before the Board at such time as the Board is notified that:
 - i. Ms. Myers is not in compliance with the terms and conditions specified by the HPMP;
 - ii. Ms. Myers' participation in the HPMP has been terminated;
 - iii. There is a pending investigation or unresolved allegation against Ms. Myers involving a violation of law, regulation, or any term or condition of this order.
 - iv. Ms. Myers has successfully completed the above-referenced period of participation in the HPMP. However, upon receipt of Ms. Myers' compliance with the HPMP, the Board, at


its discretion, may waive Ms. Myers' appearance before the Board and conduct an administrative review of this matter.

3. This Order is applicable to Ms. Myers' multistate licensure privileges, if any, to practice as a professional nurse in the Commonwealth of Virginia. For the duration of this Order, Ms. Myers 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.

4. Ms. Myers 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 upon request.

FOR THE BOARD


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

ENTERED: March 25, 2011

SEEN AND AGREED TO:

Kelly S. Myers, RN
Kelly S. Myers, R.N.

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

Subscribed and sworn to before me, Caroline Dalton, a Notary Public, this 14 day of March, 2011.

My commission expires 7/31/2014.

Registration Number 131172.

Caroline Dalton
NOTARY PUBLIC

Certified True Copy
By Damara Farmer
Virginia Board of Nursing