

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

KIMBERLY L. HORWATH, L.P.N.
License No.: 0002-072315

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 January 7, 2015, in Henrico County, Virginia. Kimberly L. Horwath, L.P.N., was present and was not represented by legal counsel. Jane Elliott, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On March 25, 2015, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Horwath submitted written comments/objections.

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 L. Horwath, L.P.N., was issued License No. 0002-072315 to practice as a practical nurse in Virginia on October 6, 2005. The license is scheduled to expire on June 30, 2016. Her primary state of residence is Virginia.
2. By letter dated December 15, 2014, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Horwath notifying her that an informal conference would be held on January 7, 2015. The Notice was sent by certified and first class mail to 341 Yorktown Blvd., Locust Grove, Virginia 22508, the address of record on file with the Board of Nursing.
3. On April 4, 2014, during the course of her employment with Dogwood Village of Orange County, Orange, Virginia ("Dogwood Village"), Ms. Horwath reported for her assigned shift

smelling of alcohol. She subsequently submitted to a breathalyzer test, which showed a blood alcohol level of 0.067. As a result, Ms. Horwath's employment was terminated.

4. At the informal conference, Ms. Horwath stated that she had three beers during a late lunch on the afternoon prior to her shift. She stated that prior to drinking the beers, she did not realize she was scheduled to work the 3:00 p.m. to 11:00 p.m. shift that evening until she reviewed her calendar during lunch. According to Ms. Horwath, she had no disciplinary issues while she worked at Dogwood Village, where she was employed for approximately five weeks. Ms. Horwath stated that she is not currently employed because she wanted to await the outcome of the informal conference.

5. When interviewed by an investigator with the Virginia Department of Health Professions on October 17, 2014, a staff member in the human resources department of Dogwood Village reported that there were no standard of care issues concerning Ms. Horwath's delivery of care, and denied that there was any patient harm.

6. On her application for employment with Culpeper Baptist Retirement Community, Culpeper, Virginia, Ms. Horwath failed to list her employment with and termination from Dogwood Village. At the informal conference, Ms. Horwath stated that she did not include this information based on her termination from Dogwood Village and its potential effect on her future employment.

CONCLUSIONS OF LAW

Finding of Fact No. 3 constitutes a violation of § 54.1-3007(5), (6), and (8) of the Code.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. Kimberly L. Horwath, L.P.N., is hereby REPRIMANDED.
2. Ms. Horwath shall provide the Board with verification that she has completed the following NCSBN online courses within 90 days of the date this Order is entered: *Ethics of Nursing*

Practice and Professional Accountability and Legal Liability for Nurses.


3. Ms. Horwath shall maintain a course of conduct in her capacity as a practical nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

4. Any violation of the terms and conditions of this Order or of any law or regulation affecting the practice of nursing in the Commonwealth of Virginia shall constitute grounds for the suspension or revocation of the license of Kimberly L. Horwath, L.P.N., and an administrative proceeding shall be convened to determine whether such license shall be suspended or revoked.

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.

Pursuant to Section 54.1-2400(10) of the Code, Ms. Horwath may, not later than 5:00 p.m., on **May 5, 2015**, notify Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing that she desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

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: _____

April 2nd 2015

This Order shall become final on **May 5, 2015**, unless a request for a formal administrative hearing is received as described above.