

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE: VICKIE J. WHITTAKER, R.N.  
License No.: 0001-243123**

**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 September 4, 2014 in Henrico County, Virginia. Vickie J. Whittaker, R.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 November 19, 2014, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Whittaker 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. Vickie J. Whittaker, R.N. was issued License No. 0001-243123 to practice professional nursing in Virginia on February 21, 2013. The license expired on November 30, 2014. She also holds a license to practice professional nursing in the State of West Virginia, which is scheduled to expire on October 31, 2015. She previously held a professional nursing license in the State of Delaware, which expired in 2013. Her primary state of residence is West Virginia.

2. By letter dated July 30, 2014, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Whittaker notifying her that an informal conference would be held on September 4, 2014. The Notice was sent by certified and first class mail to 5103 Cooks Run Road, Lindside, West

Virginia 24951, the address of record on file with the Board of Nursing.

3. During the course of her employment with UVA Health Services, Charlottesville, Virginia, on February 18, 2014, Ms. Whittaker diverted fentanyl (Schedule II) from hospital supplies for her personal and unauthorized use. Ms. Whittaker accomplished this diversion by withdrawing vials of fentanyl for two patients who were not assigned to her. She failed to account for the administration or wastage of the medication.

4. Ms. Whittaker submitted to a fitness for duty drug screen on February 19, 2014, which was positive for fentanyl, for which she did not have a prescription. Ms. Whittaker denied diverting medications and told hospital staff that she had taken fentanyl that was prescribed to her mother.

5. At the informal conference, Ms. Whittaker admitted taking the fentanyl. She stated that she administered the medication to herself at home the evening of February 18, 2014. She also acknowledged having taken two additional vials of fentanyl the previous week.

6. Ms. Whittaker's employment with UVA Health System was terminated on March 12, 2014. She is currently unemployed. She stated at the informal conference that she had a "mental breakdown" after losing her job and was too "stressed out" to work. She currently is prescribed ten different medications, including Lexapro, Xanax, and Fioricet for migraine headaches.

7. Ms. Whittaker acknowledged at the informal conference that she did have a substance abuse problem. She is not currently in any mental health or substance abuse treatment. She does not attend any 12-Step meetings. She stated that she would be willing to participate in the Health Practitioners' Monitoring Program ("HPMP") and attend meetings in order to keep her license.

#### **CONCLUSIONS OF LAW**

Findings of Fact Nos. 3 and 4 constitute a violation of § 54.1-3007(2), (5), and (6) of the Code and 18 VAC 90-20-300(A)(2)(c) of the Regulations Governing the Practice of Nursing.

**ORDER**

WHEREFORE, it is hereby ORDERED as follows:

1. The right of Vickie J. Whittaker, R.N. to renew License No. 0001-243123 is INDEFINITELY SUSPENDED.

2. The license will be recorded as suspended.

3. At such time as Ms. Whittaker 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. Whittaker 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 Ms. Whittaker's entry into the HPMP or the West Virginia equivalent program. At such time, the indefinite suspension shall be STAYED and the following terms and conditions shall apply:

a. Ms. Whittaker shall comply with all terms and conditions for the period specified by the HPMP or the West Virginia program.

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. Whittaker, 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. Whittaker is not in compliance with the terms and conditions specified by the HPMP or the West Virginia program;

ii. Ms. Whittaker's participation in the HPMP or the West Virginia program

has been terminated;

iii. There is a pending investigation or unresolved allegation against her involving a violation of law, regulation, or any term or condition of this order.

6. Upon receipt of evidence of Ms. Whittaker's participation and successful completion of the HPMP or the West Virginia Program, the Board, at its discretion, may waive her 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. Whittaker's multistate licensure privileges, if any, to practice professional nursing. For the duration of this Order, Ms. Whittaker 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.

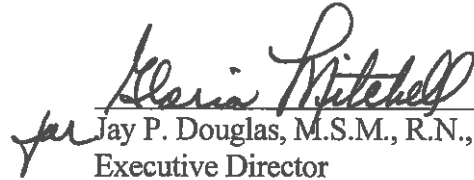
8. Ms. Whittaker shall maintain a course of conduct in her capacity as a professional nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

Pursuant to § 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. Whittaker may, not later than 5:00 p.m., on January 6, 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:

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

ENTERED: December 4, 2014

This Order shall become final on January 6, 2015, unless a request for a formal administrative hearing is received as described above.