

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: VIRGINIA L. BARLOW, R.N. REINSTATEMENT APPLICANT

ORDER

Pursuant to §§ 2.2-4020, 54.1-110 and 54.1-2400(11) of the Code of Virginia (1950), as amended ("Code"), a formal administrative hearing was held before a panel of the Board of Nursing ("Board") on March 18, 2010, in Henrico County, Virginia, to inquire into evidence that Virginia L. Barlow, R.N. Reinstatement Applicant, may have violated certain laws and regulations governing nursing practice in Virginia, and to receive and act upon Ms. Barlow's application for reinstatement of her license to practice professional nursing in Virginia, which was mandatorily suspended by an Order of the Department of Health Professions on October 23, 2009. The case was presented by Amanda E. Mitchell, Adjudication Specialist, Administrative Proceedings Division. Howard M. Casway, Senior Assistant Attorney General, was present as legal counsel for the Board. Ms. Barlow was present and was not represented by counsel. The proceedings were recorded by a certified court reporter.

Upon consideration of the evidence presented, the Board adopted the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Virginia L. Barlow previously held License No. 0001-155295 to practice professional nursing in the Commonwealth of Virginia. Said license was mandatorily suspended by an Order of the Virginia Department of Health Professions entered October 23, 2009.
2. Pursuant to Code of Virginia § 54.1-2409, Ms. Barlow submitted an application for reinstatement of her license, which was received by the Virginia Board of Nursing on December 22, 2009.
3. On October, 7, 2009, Ms. Barlow was convicted of possession of cocaine, a felony, in the Circuit Court of the Isle of Wight County, Virginia. This conviction formed the basis for the suspension of her

license to practice professional nursing by the Virginia Department of Health Professions on October 23, 2009.

4. Ms. Barlow suffers from substance abuse issues. More specifically:
 - a. She has an admitted history of cocaine use.
 - b. On October 7, 2009, she was convicted of a second offense, within five years, of driving under the influence in the Circuit Court of the Isle of Wight County, Virginia. Specifically, following an automobile accident on November 29, 2008, she submitted to a drug screen which was positive for cocaine and Zolpidem (Ambien, Schedule IV). A review of her prescription profile revealed no prescriptions for Ambien.
 - c. On June 25, 2009, she submitted to a urine drug screen at the request of an investigator with the Virginia Department of Health Professions which was positive for cocaine.
 - d. On June 11, 2009, during the course of her employment with Children's Hospital of the King's Daughters, Norfolk, Virginia, she submitted to a for-cause urine drug screen which was positive for cocaine.
 - e. On December 16, 2004, she was convicted of driving under the influence in the General District Court of the Isle of Wight County, Virginia.
5. On her Application for Reinstatement of License as a Registered Nurse Following Suspension or Revocation dated December 17, 2009, Ms. Barlow failed to list the two convictions for driving under the influence referenced above.
6. Ms. Barlow testified that she is currently compliant with the Health Practitioners' Monitoring Program, having entered into a second Recovery Monitoring Contract on October 16, 2009, following her entry into a Participation Contract and her first Recovery Monitoring Contract on July 1, 2009, and August 10, 2009, respectively. She reported a sobriety date of August 10, 2009, attendance at 12-step meetings three times a week, and attendance at Caduceus meetings two times a month.

CONCLUSIONS OF LAW

The Board concludes that:

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(4) of the Code.
2. Findings of Fact Nos. 4(a), 4(b), 4(c), 4(d) and 4(e) constitute violations of § 54.1-3007(6) of the Code.
3. Finding of Fact No. 5 constitutes a violation of § 54.1-3007(1) of the Code and 18 VAC 90-20-300(A)(1)(b) of the Regulations Governing the Practice of Nursing.

ORDER

WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS as follows:

1. The application for reinstatement of License No. 0001-155295 issued to Virginia L. Barlow to practice as a professional nurse in the Commonwealth of Virginia, be and hereby is DENIED, due to a failure to obtain the affirmative vote for reinstatement of three-fourths of the members of the Board at the hearing. Further, it is hereby ORDERED that the license of Ms. Barlow be CONTINUED on INDEFINITE SUSPENSION.
2. The license will be recorded as suspended and no longer current.
3. At such time as Ms. Barlow 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. Barlow 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 the condition that Ms. Barlow remain compliant with the terms of a Recovery Monitoring Contract with the Health Practitioners' Monitoring Program ("HPMP") and the following terms and conditions:

a. Ms. Barlow 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, and an administrative proceeding shall be held to decide 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. Barlow is not in compliance with the terms and conditions specified by the HPMP, or has been terminated from participation in the HPMP, or

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

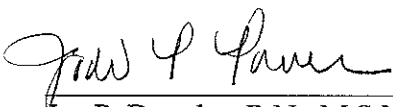
6. Upon receipt of evidence of Ms. Barlow's participation in and successful completion of the terms specified by the HPMP, the Committee, at its discretion, may waive Ms. Barlow's appearance before the Committee, and conduct an administrative review of this matter, at which time she may be issued an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

7. This Order shall be applicable to Ms. Barlow's multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. It is further ordered that for the duration of this Order, Ms. Barlow may 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.

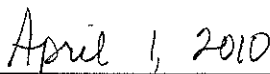
8. Ms. Barlow shall maintain a course of conduct in her capacity as a professional nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

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 on request.

FOR THE BOARD



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



ENTERED

NOTICE OF RIGHT TO APPEAL

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 days from the date you are served with this Order in which to appeal this decision by filing a Notice of Appeal with Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233. The service date shall be defined as the date you actually received this decision or the date it was mailed to you, whichever occurred first. In the event this decision is served upon you by mail, three days are added to that period.