

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: KENNETH E. GREENE, L.P.N., REINSTATEMENT APPLICANT
License No.: 0002-067228

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 September 17, 2014, in Henrico County, Virginia, to receive and act upon the application of Kenneth E. Greene for reinstatement of his license to practice practical nursing in Virginia and to inquire into evidence that Mr. Greene may have violated certain laws and regulations governing practical nursing practice in Virginia. The case was presented by Jan Willis, Adjudication Specialist, Administrative Proceedings Division. James Rutkowski, Assistant Attorney General, was present as legal counsel for the Board. Mr. Greene was present and was not represented by legal 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. Kenneth E. Greene was issued License No. 0002-067228 to practice practical nursing in the Commonwealth of Virginia on September 30, 2003. Said license was suspended by Order of the Director of the Department of Health Professions pursuant to § 54.1-2409 of the Code on April 30, 2013. His primary state of residence is Virginia. Mr. Greene submitted an application for reinstatement of his license on July 14, 2014.

2. On October 19, 2012, Mr. Greene was convicted of a felony in the Circuit Court for the City of Newport News, Virginia, to wit: One (1) Count of Child Cruelty. This conviction formed the basis of the mandatory suspension of his license on April 30, 2013 by the Virginia Department of Health Professions.

3. Prior to the mandatory suspension of his license, Mr. Greene's nursing practice was under investigation by the Virginia Board of Nursing pursuant to a complaint filed on November 7, 2011 in Case No. 141815. This case was closed in an "undetermined" status on March 5, 2012. On July 14, 2014, when Mr. Greene submitted his application for reinstatement of his license, Case No. 141815 was re-opened for consideration and scheduled to be heard with Case No. 158189, the instant case.

4. Mr. Greene was licensed on December 29, 1997 as a practical nurse in New York. He allowed this license to expire in 2009, but is eligible to renew. Mr. Greene submitted an application for licensure by endorsement in Virginia on August 4, 2003.

5. Mr. Greene entered into a Consent Order on May 31, 2002 with the New York Board of Nursing which suspended Mr. Greene's license for one year, stayed the suspension, and placed his license on probation with terms and conditions for one year. The action taken against Mr. Greene's license was based upon medication administration errors and inaccurate record keeping. Mr. Greene successfully completed the terms and conditions of probation. This disciplinary action was disclosed on Mr. Greene's application for licensure by endorsement dated August 4, 2003.

6. Mr. Greene entered into a second Consent Order on September 20, 2004 with the New York Board of Nursing which suspended his license for two years, stayed the suspension, and placed his license on probation with terms and conditions for two years, and a one thousand dollar (\$1,000.00) fine. The action taken against Mr. Greene's license was based upon medication administration errors and inaccurate record keeping. Mr. Greene successfully completed the terms and conditions of probation.

7. Mr. Greene's employment with Lake Taylor Transitional Hospital ("Lake Taylor"), Norfolk, Virginia was terminated on December 1, 2010 for delayed administration of medication and/or lack of medication administration documentation involving four patients.

8. Mr. Greene's employment with Autumn Care of Chesapeake ("Autumn Care"), Chesapeake, Virginia was terminated on January 18, 2012 for infractions including lack of performance efficiency on the

job, failure to give pain medication when requested, inaccurate charting, and failure to notify family of the change of status of a patient.

9. On August 31, 2012, during the course of his employment with Harbor's Edge Retirement Community ("Harbor's Edge"), Norfolk, Virginia, Mr. Greene failed to follow doctor's orders on insulin dosing and time of administration, failed to follow infection control procedures, failed to assess a resident's condition, and failed to secure his medicine cart and maintain it in an organized condition.

10. On January 18, 2012, Mr. Greene falsely told the Department of Health Professions investigator that his employment had never been terminated when, in fact, his employment had been terminated from Autumn Care; Lake Taylor; All Heart Home Health Agency, Norfolk, Virginia; and Beth Shalom Home of Eastern Virginia, Virginia Beach, Virginia.

11. Mr. Greene falsely stated on his application for employment with Autumn Care, dated December 22, 2010, that he left Lake Taylor because he "needed more flexibility" when, in fact, his employment with Lake Taylor was terminated on December 1, 2010.

12. Mr. Greene falsely stated on his application for employment with Harbor's Edge, dated December 9, 2010, that he had never been fired or asked to resign from his job when, in fact, his employment with Lake Taylor was terminated on December 1, 2010.

13. Mr. Greene self-reported his conviction to the Board. Mr. Greene has been offered employment as a nurse. He has completed 47 hours in continuing education and provided positive employment evaluations. Mr. Greene testified that he would agree to the monitoring of his nursing practice if the Board approved his reinstatement application.

CONCLUSIONS OF LAW

1. Finding of Fact No. 2 constitutes a violation of § 54.1-3007(4) of the Code.
2. Finding of Fact No. 6 constitutes a violation of § 54.1-3007(7) of the Code.
3. Findings of Fact Nos. 7, 8 and 9 constitute violations of § 54.1-3007(2), (5) and (8) of the

Code and 18 VAC 90-20-300(A)(2)(f) of the Regulations Governing the Practice of Nursing (“Regulations”).

4. Finding of Fact No. 10 constitutes a violation of § 54.1-3007(2) and (5) of the Code and 18 VAC 90-20-300(A)(2)(n) of the Regulations.

5. Findings of Fact Nos. 11 and 12 constitute violations of § 54.1-3007(2) and (5) of the Code and 18 VAC 90-20-300(A)(2)(e) of the Regulations.

ORDER

WHEREFORE, the Virginia Board of Nursing, hereby ORDERS as follows:

1. By affirmative vote of at least three-fourths of the members of the Board at the hearing, effective upon entry of this Order, the Board hereby ORDERS that License No. 0002-067228 issued to Kenneth E. Greene to practice practical nursing in the Commonwealth of Virginia be and hereby is REINSTATED on INDEFINITE PROBATION for not less than two years of actual nursing employment, subject to the following terms and conditions:
 - a. The period of probation shall begin on the date that this Order is entered and shall end at such time as Mr. Greene has completed two years of active employment as a practical nurse. The license of Mr. Greene shall be reinstated without restriction at the completion of the probationary period without an administrative proceeding unless there is a pending investigation or unresolved allegation involving a violation of law, regulation or any term or condition of probation. In that event, the period of probation shall be continued indefinitely or until such time as the Board makes a case decision in accordance with the Administrative Process Act, § 2.2-4000 et seq. and § 54.1-2400(9) et seq. of the Code.
 - b. Mr. Greene shall request his court appoint probation officer to provide the Board with a written report describing how he is meeting the conditions of his probation within 60 days from the date this Order is entered.
 - c. Mr. Greene shall provide the Board with a certified true copy of his final court order

placed on record by the Court upon completion of his probation.

- d. Performance Evaluations shall be provided to the Board, at the direction of Mr. Greene, by all practice employer(s), using the forms provided by Compliance and available on the Board's website.
- e. Mr. Greene shall practice nursing only in a structured/supervised employment setting satisfactory to the Board for the first two years of probation. This employment setting shall provide on-site supervision by a professional nurse or licensed practical nurse that works on the same level of the building, and holds an unrestricted license. For all current practice employment, and before beginning or changing practice employment during this period, Mr. Greene shall have current and all prospective practice employers provide a written description of the employment setting to the Board office for approval.
- f. Mr. Greene shall provide evidence within 60 days of entry of the Order that he has completed the following NCSBN online courses: *Documentation: A Critical Aspect of Client Care; Ethics of Nursing Practice; Medication Errors: Detection & Prevention; and Professional Accountability & Legal Liability for Nurses.*
- g. The Board shall issue a licensed practical nurse license marked "Valid in Virginia Only; Probation with Terms."
- h. Written reports are required by this Order and, unless otherwise specified shall be sent to *Compliance* at the Board offices with the first report(s) received in the Board office no later than 60 days from the date this Order is entered. Subsequent reports must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends. Many of the required report forms are available on the Board's website for your convenience.
- i. Mr. Greene shall inform the board in writing within ten days of the date any practice employment begins, changes, is interrupted or ends. Additionally, Mr. Greene shall provide a contact name, address, and phone number for each practice employer to the Board.

- j. Mr. Greene shall inform all current and future practice employers that the Board has placed him on probation and under terms and conditions and Mr. Greene shall provide each practice employer with a complete copy of this Order. If Mr. Greene is employed through a staffing agency, he shall inform his supervisor in each facility where assigned that he is on probation and under terms and conditions.
- k. Mr. Greene shall provide all current and future treating practitioners with a complete copy of this Order and shall execute an *Authorization for Disclosure of Information* form providing for unrestricted communication between the Board, Compliance, and any treatment providers, court-appointed probation or parole officers, and/or consultants designated by the Board, if applicable.
- l. Mr. Greene shall submit "Self-Reports" which include a current address, telephone number, and verification of any and all current practice employment. These reports shall also include any changes in practice employment status. Self Reports must be submitted whether Mr. Greene has current practice employment or not.
- m. Mr. Greene shall conduct himself as a licensed practical nurse in compliance with the requirements of Title 54.1, Chapter 30 of the Code and the Board of Nursing Regulations.
- n. Any violation of the stated terms and conditions contained in this Order, or failure to comply with all terms of this Order within five years of the date of entry of the Order, shall be reason for suspending or revoking the license of Mr. Greene, and an administrative proceeding may be held to determine whether his license shall be suspended or revoked.
- o. This Order shall be applicable to Mr. Greene's multistate licensure privileges, if any, to practice nursing. For the duration of this Order, Mr. Greene shall not practice outside of the Commonwealth of Virginia pursuant to a multistate licensure privilege without the express written permission of both the Virginia Board of Nursing and the Board of Nursing in the party state where he wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

2. Kenneth E. Greene is hereby REPRIMANDED.

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

for *Stacia Mitchell*
Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director
Virginia Board of Nursing

October 17, 2014
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, MSM, RN, CSAC, FRE, Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, 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.

Certified True Copy

By *draham*
Virginia Board Of Nursing