

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE:       JOSEPH MCVEY, L.P.N.**  
**License No.: 0002-071619**

**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 March 13, 2013, in Henrico County, Virginia. Mr. McVey was present and was not represented by legal counsel. Janet Younger, Ph.D., R.N., C.P.N.P., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On May 22, 2013, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mr. McVey was present and was not 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. Joseph McVey, L.P.N., was issued License No. 0002-071619 to practice practical nursing in Virginia on July 11, 2005. The license is valid in Virginia only and is scheduled to expire on August 31, 2013. His primary state of residence is West Virginia. He previously held a license to practice practical nursing in West Virginia, which expired in 2011.

2. By letter dated February 21, 2013, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Mr. McVey notifying him that an informal conference would be held on March 13, 2013. The Notice was sent by certified and first class mail to 67-B Old Athens Road, Princeton, West Virginia 24740, the address of record on file with the Board of Nursing.

3. During the course of his employment as a practical nurse at Richfield Recovery Care

Center, Salem, Virginia, from approximately November 2011 through November 25, 2012, by his own admission, Mr. McVey diverted Percocet (oxycodone and acetaminophen, Schedule II) and oxycodone (Schedule II) from patients who had physicians' orders for these PRN medications. He accomplished this diversion by falsely documenting that patients asked for pain medication and that he administered the medication to them, while keeping the drugs for himself. He occasionally took these medications while on duty.

4. Mr. McVey's employment with Richfield was terminated on November 30, 2012 as a result of his diversion. He has been criminally charged with two felony counts of obtaining drugs by false pretenses. His next court date is March 22, 2013.

5. At the informal conference, Mr. McVey acknowledged that he became dependent on opiates due to problems with his back and legs. He had prescriptions but diverted patients' medications because he was taking more than he was supposed to due to his pain. He stated that he took between 60 and 80 pills over the course of approximately six months, but that he never deprived patients of their needed pain medication.

6. Mr. McVey made contact with the Health Practitioners' Monitoring Program ("HPMP") and signed a participation contract on March 11, 2013. He is not currently in any substance abuse treatment. He stated that he stopped taking narcotics by himself and experienced severe withdrawal symptoms. He takes Prozac and Ultram as prescribed by his primary care physician.

7. Mr. McVey was previously employed with Salem Health and Rehabilitation Center between 2005 and 2009. His employment at that facility was terminated for leaving a medication cart unlocked. He is not currently employed.

#### CONCLUSIONS OF LAW

1. Finding of Fact #3 constitutes a violation of § 54.1-3007(2), (5), and (6) of the Code and

18 VAC 90-20-300(A)(2)(c) and (e) of the Regulations Governing the Practice of Nursing.

2. Finding of Fact No. 5 constitutes a violation of § 54.1-3007(6) of the Code.

**ORDER**

WHEREFORE, it is hereby ORDERED as follows:

1. The Board shall TAKE NO ACTION contingent on Joseph McVey's continued compliance with the Health Practitioners' Monitoring Program for the period specified by the HPMP.

2. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Mr. McVey, and an administrative proceeding shall be held to decide whether his license should be revoked. Mr. McVey shall be noticed to appear before the Board at such time as the Board is notified that:

- a. He is not in compliance with the terms and conditions of the HPMP, or has been terminated from participation in the HPMP;

- b. There is a pending investigation or unresolved allegation against him involving a violation of law or regulation or any term or condition of this Order; or

- c. He has successfully completed the above-referenced period of participation in the HPMP. However, upon receipt of Mr. McVey's participation in and compliance with the HPMP, the Board, at its discretion, may waive his appearance before the Board and conduct an administrative review of this matter.

3. This Order is applicable to Mr. McVey's multistate licensure privileges, if any, to practice practical nursing. For the duration of this Order, Mr. McVey 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 he wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of

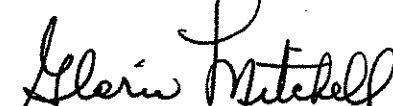
the Board.

4. Mr. McVey shall maintain a course of conduct in his capacity as a practical 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, Mr. McVey may, not later than 5:00 p.m., on July 15, 2013, notify Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing that he 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, R.N., M.S.M., C.S.A.C.  
Executive Director  
Virginia Board of Nursing

ENTERED: June 11, 2013

This Order shall become final on July 15, 2013, unless a request for a formal administrative hearing is received as described above.

**Certified True Copy**

By   
**Virginia Board of Nursing**