

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 August 13, 2013, in Henrico County, Virginia. Joseph McVey, L.P.N., was not present nor was he represented by legal counsel. Jane Elliott, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On September 17, 2014, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mr. McVey was not present nor was he 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 expired on August 31, 2013. Mr. McVey holds an expired license to practice in West Virginia. His primary state of residence is West Virginia.

2. By letter dated July 17, 2014, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Mr. McVey notifying him that an informal conference would be held on August 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. The certified mail receipt was signed on

July 19, 2013. The Notice sent by first class mail was not returned to the Board office. The Agency Subordinate concluded that adequate notice was provided to Mr. McVey and the informal conference proceeded in his absence.

3. By Order of the Board entered June 11, 2013, following an informal conference in which Mr. McVey was found to be unsafe to practice nursing due to substance abuse and physical illness, the Board took no action against Mr. McVey contingent upon his continued compliance with the Health Practitioners' Monitoring Program ("HPMP").

4. On September 20, 2013, Mr. McVey was dismissed from the HPMP due to noncompliance. Specifically, he failed to call the drug screen test line on July 2, July 3, and August 7, 2013. He also failed to submit drug screens on July 19, July 26, August 6 and August 12, 2013. On August 12, 2013, Mr. McVey stopped calling the test line.

5. On December 9, 2013, during an interview with an investigator from the Department of Health Professions, Mr. McVey reported that he lives in West Virginia. His criminal case related to his diversion of controlled substances is under advisement with the Roanoke County, Virginia, Circuit Court until June 2016, and he cannot leave West Virginia while he is on probation. Therefore, he is unable to use his Virginia nursing license. Mr. McVey also stated that he cannot perform the duties of a practical nurse due to back pain.

CONCLUSIONS OF LAW

Finding of Fact No. 4 constitutes a violation of § 54.1-3007(6) of the Code and Term No. 2 of the Board Order entered June 11, 2013.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. Joseph McVey, L.P.N., is hereby REPRIMANDED.

2. The right of Joseph McVey, L.P.N., to renew License No. 0002-071619 is INDEFINITELY SUSPENDED.

3. The license will be recorded as suspended and no longer current.

4. At such time as Mr. McVey shall petition the Board for reinstatement of his license, an administrative proceeding will be convened to determine whether he is capable of resuming the safe and competent practice of practical nursing. Mr. McVey 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.

5. This suspension applies to any multistate privilege to practice practical nursing.


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.

Since Mr. McVey failed to appear at the informal conference, this Order shall be considered final. Mr. McVey has the right to appeal this Order directly to the appropriate Virginia circuit court. As provided by Rule 2A:2 of the Supreme Court of Virginia, Mr. McVey has thirty (30) days from the date of service (the date he actually received this decision or the date it was mailed to him, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Jay P. Douglas M.S.M., R.N., C.S.A.C., F.R.E., Executive Director, Board of Nursing, at Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233. In the event that this decision is served by mail, three (3) days are added to that period.

FOR THE BOARD


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

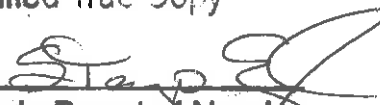
Certified True Copy

By 
Virginia Board of Nursing

Virginia Board of Nursing

Entered: October 6, 2014

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By 
Virginia Board of Nursing