

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE: PENNY KELLEY, L.P.N.**  
**License No.: 0002-088740**

**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, 2014, in Henrico County, Virginia. Penny Kelley, L.P.N., was not present nor was she 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. Ms. Kelley 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. Penny Kelley, L.P.N., was issued License No. 0002-088740 to practice practical nursing in Virginia on March 18, 2013. The license expired on August 1, 2013, due to the Nurse Licensure Compact Act. Her primary state of residence is North Carolina.

2. By letter dated July 17, 2014, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Kelley notifying her that an informal conference would be held on August 13, 2014. The Notice was sent by certified and first class mail to 1808 Sunset Drive, Kill Devil Hills, North Carolina, 27948, the address of record on file with the Board of Nursing. The Notice sent by certified mail was delivered on July 19, 2014. The Notice sent by first class mail was not returned to the Board

office. The Agency Subordinate concluded that adequate notice was provided to Ms. Kelley and the informal conference proceeded in her absence.

3. By Order of the Board entered February 6, 2013, the Board granted Ms. Kelley's application for licensure to practice practical nursing contingent upon her continued compliance with all terms and conditions of the Health Practitioners' Monitoring Program ("HPMP"), which she had entered on October 13, 2012, based on previous substance abuse issues.

4. On November 18, 2013, Ms. Kelley was dismissed from the HPMP due to noncompliance. Specifically, Ms. Kelley tested positive for ethanol on September 23, and November 4, 2013, and the HPMP recommended that Ms. Kelley enter an intensive outpatient treatment program; however, she failed to do so.

#### 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 February 6, 2013.

#### ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. Penny Kelley, L.P.N., is hereby REPRIMANDED.
2. The right of Penny Kelley, L.P.N., to renew License No. 0002-088740 is INDEFINITELY SUSPENDED.
3. The license will be recorded as suspended and no longer current.
4. At such time as Ms. Kelley 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 practical nursing. Ms. Kelley 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 Ms. Kelley failed to appear at the informal conference, this Order shall be considered final. Ms. Kelley 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, Ms. Kelley has thirty (30) days from the date of service (the date she actually received this decision or the date it was mailed to her, 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  
Virginia Board of Nursing

Entered: October 6, 2014

Certified True Copy

By   
Virginia Board of Nursing