

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: TAMBERLYN RUSSELL, C.N.A. 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 May 21, 2009, in Henrico County, Virginia, to act upon Tamberlyn Russell's application for reinstatement of her certificate to practice as a nurse aide in Virginia, and to inquire into evidence that Ms. Russell may have violated certain statutes governing certified nurse aide practice in Virginia. The case was presented by Wendell Roberts, Adjudication Specialist, Administrative Proceedings Division. Howard M. Casway, Senior Assistant Attorney General, was present as legal counsel for the Board. Ms. Russell 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. Tamberlyn Russell, C.N.A., was issued Certificate No. 1401-060092 to practice as a nurse aide by the Virginia Board of Nursing on June 16, 1996. Said certificate was mandatorily suspended by the Department of Health Professions on January 26, 2009.
2. Ms. Russell was convicted of the following felony convictions in the Circuit Court of Southampton County, Courtland, Virginia:

- (i) two felony counts of Possession of Cocaine (§18.2-250(A) of the Code) on October 20, 1999;
- (ii) one felony count of Forgery (§18.2-172 of the Code) on October 20, 1999;
- (iii) one felony count of Uttering (§18.2-172 of the Code) on October 20, 1999;
- (iv) one felony count of Forging A Legal Document (§18.2-168 of the Code) on August 25, 1998.

The felony convictions formed the basis of the suspension of Ms. Russell's certificate to practice as a certified nurse aide.

3. Ms. Russell executed a Recovery Monitoring Contract with the Health Practitioners' Intervention Program ("HPIP") on March 23, 2009, where she acknowledged that she is unable to practice as a certified nurse aide safely due to substance abuse.

4. In April 2005, Ms. Russell entered Rubicon Women's Treatment Center ("Rubicon"), Richmond, Virginia, and participated in that program for ten months, successfully completing the program in August 2005. Ms. Russell testified that her sobriety date is March 15, 2005. She attends Narcotics Anonymous meetings weekly. Her sponsor appeared at the hearing and testified that she and Ms. Russell work together weekly on the step process. She further testified that Ms. Russell has been compliant and is very engaged in the step process.

5. Ms. Russell's HPIP case manager, Martha Ann Spruill, appeared and testified that Ms. Russell was referred for a mental health and substance abuse evaluation in March 2009. The results of the evaluation recommended no additional treatment for Ms. Russell. All of Ms. Russell's toxicology screens have been negative, and she has been compliant with her HPIP contract. Ms. Spruill stated that she is comfortable with Ms. Russell resuming practice as a certified nurse aide.

6. Ms. Russell testified and provided proof that she has paid approximately \$5,000 of the \$6,000 she owes in court costs and fines. Ms. Russell was hired by Rubicon in August 2007 and is

currently employed there. She further provided a number of letters of positive reference from potential employers.

7. Ms. Russell otherwise meets the requirements for reinstatement of her nurse aide certification.

CONCLUSION OF LAW

The Board concludes that:

1. Finding of Fact #2 constitutes a violation of §54.1-3007(4) of the Code.
2. Finding of Fact #3 constitutes a violation of §54.1-3007(6) of the Code.

ORDER

WHEREFORE, the Virginia Board of Nursing, by affirmative vote of at least three-fourths of the members of the Board at the hearing, effective upon entry of this Order, hereby ORDERS that Certificate No. 1401-060092 issued to Tamberlyn Russell to practice as a certified nurse aide in the Commonwealth of Virginia, be and hereby is REINSTATED, subject to the following terms and conditions:

1. Ms. Russell shall remain compliant with the terms of her Recovery Monitoring Contract with the HPIP and the following terms and conditions:

a. Ms. Russell shall comply with all terms and conditions for the period specified by the HPIP.

b. Any violation of the terms and conditions stated in this Order shall be reason for summarily suspending the certificate of Ms. Russell, and an administrative proceeding shall be held to decide whether her certificate shall be revoked. The certificate of Ms. Russell may be summarily suspended at such time the Board is notified that:

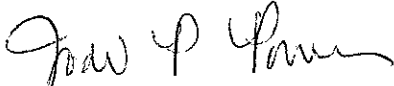
i. Ms. Russell is not in compliance with the terms and conditions specified by the HPIP, or has been terminated from participation in the HPIP, or

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

2. Ms. Russell shall maintain a course of conduct in her capacity as a nurse aide 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



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

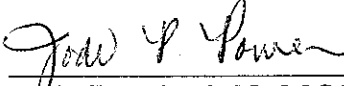
May 29, 2009
ENTERED

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.

Certificate of Service

I hereby certify that a true copy of the foregoing Order was mailed on this day to Tamberlyn Russell, C.N.A., 5301 Moncure Avenue, Richmond, Virginia 23231



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

May 29, 2009
DATE