

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: **DIANE MARIE GRADY HAKE, R.N.**
License No.: 0001-173517

CONSENT ORDER

The Virginia Board of Nursing ("The Board") and Diane Marie Grady Hake, R. N., as evidenced by their signatures affixed below, agree to enter into this Consent Order affecting the license of Ms. Hake to practice nursing in the Commonwealth of Virginia.

FINDINGS OF FACT

The Board adopts the following findings of fact in this matter:

1. Diane Marie Grady Hake, R.N., was issued License No. 0001-173517 by the Board to practice nursing in the Commonwealth of Virginia on March 12, 2001. Said license is scheduled to expire on January 31, 2016. Ms. Hake's primary state of residence is Pennsylvania.
2. By Order of the Board ("Board's Order") entered September 20, 2005, the Virginia Board of Nursing suspended Ms. Hake's license to practice nursing in the Commonwealth of Virginia. This action was based upon Ms. Hake's violation of § 54.1-3007(2), (5), (6) and (8) of the Code and 18 VAC 90-20-300(A)(2)(c) and (e) of the Regulations of the Virginia Board of Nursing in that:
 - a. On July 6, 2000, Ms. Hake entered into a Participation Contract with the Health Practitioners' Intervention Program ("HPIP"). She signed Recovery Monitoring Contracts with the HPIP on July 26, 2000, and on April 21, 2004. On December 10, 2004, she was dismissed from the program due to non-compliance.

b. During the course of her employment with the Plastic Surgery Center of Hampton Roads (“Center”), Newport News, Virginia, between January 2004 and April 2004, Ms. Hake diverted multiple narcotics for her personal and unauthorized use.

3. By Order of the Board entered on October 22, 2012, the Board reinstated Ms. Hake’s license to practice nursing in the Commonwealth of Virginia. Further, she was placed on indefinite probation and subject to certain terms and conditions.

4. By Final Order of Revocation of License to Practice Registered Nursing entered on February 24, 2009, the State of Maryland Board of Registered Nursing revoked the Registered Nurse License issued to Diane Marie Grady Hake, R.N. This action was based solely on the Virginia Board’s Order entered September 20, 2005.

5. By Order entered September 16, 2014, the Director of the Department of Health Professions mandatorily suspended Ms. Hake’s license pursuant to Section 54.1-2409 of the Code due to the action of the Maryland Board.

CONCLUSIONS OF LAW

This matter of the reinstatement of Ms. Hake’s license to practice nursing in the Commonwealth of Virginia is properly before the Board.

CONSENT

I, Diane Marie Grady Hake, R.N., by affixing my signature hereto, acknowledge that:

1. I have been advised specifically to seek the advice of counsel prior to signing this document;

2. I am fully aware that without my consent, no legal action can be taken against me, except pursuant to the Virginia Administrative Process Act, § 2.2-4000.A et seq. of the Code of

Virginia;

3. I have the following rights, among others:
 - a. the right to an informal conference before the Board; and
 - b. the right to appear in person or by counsel, or other qualified representative before the agency.
4. I waive all rights to an informal conference;
5. I admit the truth of the above Findings of Fact; and
6. I consent to the following Order affecting my license to practice nursing in the Commonwealth of Virginia.

ORDER

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, and with the consent of the licensee, it is hereby ORDERED that the license of Diane Marie Grady Hake, R.N., to practice nursing in the Commonwealth of Virginia, be, and hereby is, REINSTATED effective September 16, 2014, pursuant to the terms and conditions placed on her as referenced in the Board's Order of October 22, 2012.

Ms. Hake shall maintain a course of conduct in her practice of nursing commensurate with the requirements of Title 54.1, Chapter 30 of the Code and all laws of the Commonwealth.

Pursuant to Section 54.1-2400.2 of the Code, the signed original of this Consent 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.

FOR THE BOARD:

Jane R. Ingalls
Jane R. Ingalls, R.N., Ph. D.
President, Virginia Board of Nursing

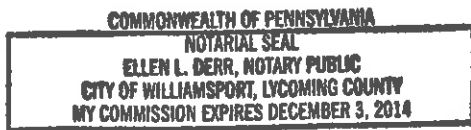
ENTERED: 16 Sept, 2014

SEEN AND AGREED TO:

Diane Marie Grady Hake RN
Diane Marie Grady Hake, R.N.

COMMONWEALTH OF PENNSYLVANIA
COUNTY CITY OF Lycoming, TO WIT:

Subscribed and sworn to before me, the undersigned Notary Public, in and for the Commonwealth of Pennsylvania, at large, this 29 day of August, 2014, by Diane Marie Grady Hake, R.N.



Ellen L. Derr
Notary Public
Registration Number: 1259230
My commission expires: 12/3/14

Certified True Copy
By dgraham
Virginia Board Of Nursing

VIRGINIA:

BEFORE THE DEPARTMENT OF HEALTH PROFESSIONS


IN RE: DIANE MARIE GRADY HAKE, R.N.
License Nos.: 0001-173517

ORDER

In accordance with Section 54.1-2409 of the Code of Virginia (1950), as amended, ("Code"), I, David E. Brown, D.C., Director of the Virginia Department of Health Professions, received and acted upon evidence that the State of Maryland Board of Nursing revoked the license of Diane Marie Grady Hake, R.N., to practice as a registered nurse in the State of Maryland by a Final Order of Revocation of License to Practice Registered Nursing entered February 24, 2009. A certified copy of the Final Order of Revocation of License to Practice Registered Nursing is attached to this Order and is marked as Commonwealth's Exhibit No. 1.

WHEREFORE, by the authority vested in the Director of the Department of Health Professions pursuant to Section 54.1-2409 of the Code, it is hereby ORDERED that the license of Diane Marie Grady Hake, R.N., to practice as a professional nurse in the Commonwealth of Virginia be, and hereby is, SUSPENDED.

Pursuant to Sections 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 a public record and shall be made available for public inspection and copying upon request.



David E. Brown, D.C., Director
Department of Health Professions


ENTERED: 9/16/14

Certified True Copy

By *draham*
Virginia Board Of Nursing

CERTIFICATION OF DUPLICATE RECORDS

I, David E. Brown, D.C., Director of the Department of Health Professions, hereby certify that the attached Final Order of Revocation of License to Practice Registered Nursing entered February 24, 2009, regarding Diane Marie Grady Hake, R.N., are true copies of the records received from the State of Maryland Board of Nursing.



David E. Brown, D.C.

Date: 9/16/14

IN THE MATTER OF
DIANE MARIE HAKE
License # R128882

BEFORE THE MARYLAND
BOARD OF NURSING
OAG # 08-BP-208

* * * * *

**FINAL ORDER OF REVOCATION OF LICENSE TO PRACTICE REGISTERED
NURSING**

BACKGROUND

The Maryland Board of Nursing (the "Board") hereby **REVOKES** the license of Diane Marie Hake ("Respondent"), d/o/b: 01/22/1956, License Number R128882, pursuant to the Administrative Procedure Act ("the APA"), Md. State Government Code Ann. ("State Govt.") § 10-226(c)(1) (2004 & Supp. 2007) and the Maryland Nurse Practice Act (the "Nurse Practice Act"), Md. Health Occupations Code Ann. ("Health Occ.") §§ 8-101 *et seq.* (2005 & Supp. 2007). The pertinent provisions of the Nurse Practice Act, § 8-316 under which this Order is based, are as follows:

- (a) *In general.* – Subject to the hearing provisions of § 8-317 of this subtitle, the Board may...reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the... licensee:
- (3) Is disciplined by a licensing, military, or disciplinary authority in this State or any other state or country or convicted or disciplined by a court in this State or any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes: *to wit*:
- (5) Willfully and knowingly:
- (i) Files a false report or record of an individual under the licensee's care;
- (ii) Gives any false or misleading information about a material matter in an employment application;
- (8) Does an act that is inconsistent with generally accepted professional standards in the practice of registered nursing;



- (19) Is addicted to, habitually abuses, any narcotics or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (25) Engages in conduct that violates the professional code of ethics; *to wit*,
Code of Maryland Regulations ("COMAR") 10.27.19.02 B: A nurse may not, when acting in the capacity or identity of a licensed nurse (1) Knowingly participate in or condone dishonesty, fraud, deceit, or misrepresentation; and
COMAR 10.27.19.02 C: A nurse may not engage in behavior that dishonors the profession whether or not acting in the capacity or identity of a licensed nurse, including, but not limited to: (4) Diverting any medication or providing false or misleading information to an authorized prescriber or a pharmacist to obtain or attempt to obtain any medication; (8) Using, possessing, supplying, administering, or attempting to use, possess, supply, or administer prescription drugs or controlled dangerous substances without valid medical indication;

On October 15th and 22nd, 2008, the Board forwarded a copy of this Final Order of Revocation of License to Practice Registered Nursing (the "Order"), unexecuted, to Respondent by certified and regular mail to Respondent's last known address registered with the Board. Included with the unexecuted Order was a letter from the Board informing Respondent that pursuant to the Nurse Practice Act and the APA, she was entitled to an evidentiary hearing before the Board could revoke her license. Respondent was also informed that she had thirty (30) days from the date of the letter included with the unexecuted Order to request an evidentiary hearing. Additionally, Respondent was placed on notice that if a request for an evidentiary hearing was not received within the thirty (30) days, this Order would be executed as written. Respondent failed to submit a written request for an evidentiary hearing.

FINDINGS OF FACT

1. On December 21, 1999, Respondent was issued a Registered Nurse ("RN") license in Maryland. Respondent's RN license is currently 'Non-renewed' having expired on January 28, 2001.
2. On May 5, 2007, the Board received notification from the U.S. Department of Health and Human Services: Office of the Inspector General that Respondent was being "excluded from participation in any capacity in the Medicare, Medicaid, and all Federal health care programs as defined in section 1128B(f) of the Social Security Act."¹
3. This act of exclusion was due to the Respondent's "loss of license to practice as a registered nurse in the State of Virginia."
4. On September 20, 2005, Respondent entered into a Consent Order with the Virginia Board of Nursing and agreed to the indefinite suspension of her license to practice as a Registered Nurse in the Commonwealth of Virginia.
5. The Consent Order included the following Findings of Fact:
 - a. On July 6, 2000, Respondent entered into a Participation Contract with the Health Practitioners' Intervention Program ("HPIP")² and on July 26, 2000, Respondent signed a Recovery Monitoring Contract with the HPIP. On April 21, 2004, Respondent signed a second Recovery Monitoring Contract which superseded the previous one dated July 26, 2000.
 - b. On September 15, 2003, Respondent tested positive for propoxyphene and on September 7, 2004, she tested positive for alcohol at a level of 0.27.

¹ The **Office of Inspector General (OIG)** was established in the U.S. Department of Health and Human Services to identify and eliminate fraud, waste, and abuse in the Department's programs and to promote efficiency and economy in Departmental operations.

² This was done with the understanding that the program is to assist those persons who have impairment, defined as "a physical or mental disability, including, but not limited to substance abuse, that substantially alters the ability of a practitioner to practice his profession with safety to his patients and the public."

- c. Between January 2004 and April 2004, while employed at Plastic Surgery Center of Hampton Roads ("Center"), in Newport News, Virginia, Respondent requested and received Percocet³ and Vicodin⁴ from the Center's recovery room nurses. To accomplish these diversions, Respondent falsified patient records.
- d. While employed at the Center, Respondent acquired 26 pre-signed prescription blanks from four Center physicians. She subsequently filled the prescriptions to receive Percocet, Darvocet⁵, Vicodin and Vicodin ES for her personal use.
- e. In early January 2004, Respondent gave Valium⁶ to a patient. When confronted by her work site monitor about how she had obtained the medication, Respondent admitted she removed the keys to the narcotics cabinet from her work site monitor's lab coat.
- f. Respondent misrepresented the facts on her application for employment at the Center. Specifically, she did not state the reason for leaving her employment at Plastic Surgery Specialists in Annapolis, Maryland, where she worked from August 1996 to August 1999. Respondent's employment at Plastic Surgery Specialists was terminated after it was discovered she was calling in prescriptions for herself for Darvon⁷, Darvocet, Valium, Vicodin and Lortab,⁸ using physician DEA numbers.
- g. On December 10, 2004, Respondent was dismissed from the HPIP program due to multiple reports of non-compliance.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that Respondent violated Health Occ. § 8-316, as follows:

³ Percocet is classified as an opiate and is a combination of the narcotic oxycodone and acetaminophen used to relieve moderate to severe pain. It is a Schedule II CDS.

⁴ Vicodin is a combination of the narcotic hydrocodone and acetaminophen used to relieve moderate to severe pain. It is a schedule III CDS.

⁵ Darvocet is a combination of drugs (generic: acetaminophen and propoxyphene) used to relieve mild to moderate pain and fever. It is a schedule IV CDS

⁶ Valium (generic: Diazepam) is substance with depressant effect on the central nervous system and Schedule IV CDS.

⁷ Darvon (generic: Propoxyphene) is used to relieve mild to moderate pain. It is a Schedule IV CDS.

⁸ Lortab is a combination of drugs (generic: acetaminophen and hydrocodone) used to relieve used to relieve moderate to moderately severe pain. It is a schedule III CDS.

(a) *In general.* – Subject to the hearing provisions of § 8-317 of this subtitle, the Board may...reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the... licensee:

(3) Is disciplined by a licensing, military, or disciplinary authority in this State or any other state or country or convicted or disciplined by a court in this State or any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes: *to wit*:

(5) Willfully and knowingly:

(i) Files a false report or record of an individual under the licensee's care;

(ii) Gives any false or misleading information about a material matter in an employment application;

(8) Does an act that is inconsistent with generally accepted professional standards in the practice of registered nursing;

(19) Is addicted to, habitually abuses, any narcotics or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;

(25) Engages in conduct that violates the professional code of ethics; *to wit*,

Code of Maryland Regulations ("COMAR") 10.27.19.02 B: A nurse may not, when acting in the capacity or identity of a licensed nurse (1) Knowingly participate in or condone dishonesty, fraud, deceit, or misrepresentation; and COMAR 10.27.19.02 C: A nurse may not engage in behavior that dishonors the profession whether or not acting in the capacity or identity of a licensed nurse, including, but not limited to: (4) Diverting any medication or providing false or misleading information to an authorized prescriber or a pharmacist to obtain or attempt to obtain any medication; (8) Using, possessing, supplying, administering, or attempting to use, possess, supply, or administer prescription drugs or controlled dangerous substances without valid medical indication;


ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 24th day of February, 2009, by a majority vote of a quorum of the Board hereby:

ORDERED that Diane Marie Hake's license to practice Registered Nursing, License Number R128882 is hereby **REVOKED**; and it is further

ORDERED that this Order of Revocation is a Final Order of the Board; and it is further

ORDERED that this Final Order and is a public document pursuant to the Maryland Public Information Act, State Govt. §§ 10-611, *et seq.* (2004 & Supp. 2007) and that for purposes of public disclosure, the Board may disclose this document at its discretion to, including but not limited to, any national reporting bank or other entity to whom the Board is mandated to report.



Nancy Adams, RN, MBA
President
Maryland Board of Nursing

NOTICE OF RIGHT TO APPEAL

Pursuant to State Govt. § 10-222 (c), Respondent has a right to take a direct judicial appeal of a final decision by the Board. A Petition for Judicial Review must be filed within thirty (30) days of Respondent's receipt of this executed Order and shall be made as provided for judicial review of a final decision in the APA, codified at State Govt. §§ 10-201 *et seq.* and Title 7, Chapter 200 of the Maryland Rules.