

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

DIANE HAKE, R.N.

CONSENT ORDER

The Virginia Board of Nursing, and Diane Hake, R.N., with her consent as evidenced by her signature below, enter into the following Consent Order affecting Ms. Hake's license to practice professional nursing in the Commonwealth of Virginia.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Diane Hake, R.N., currently holds License No. 0001-173517 issued by the Virginia Board of Nursing.
2. On July 6, 2000, Ms. Hake entered into a Participation Contract with the Health Practitioners' Intervention Program ("HPIP"), pursuant to Chapter 25.1 of Title 54.1 of the Code and 18 VAC 76-10-10, et seq., of the Regulations Governing the HPIP. 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." She signed a Recovery Monitoring Contract with the HPIP on July 26, 2000, which was superseded by a Recovery Monitoring Contract dated April 21, 2004. Ms. Hake violated § 54.1-3007(6) of the Code, in that, on December 10, 2004, she was dismissed from the HPIP program due to noncompliance. Specifically, the HPIP stated in its Report of Noncompliance, dated October 21, 2004, that she failed to enter and complete treatment as recommended, tested positive for alcohol on September 7, 2004, entered Tucker Treatment Center for detoxification from alcohol on October 15, 2004, and failed to submit to urine toxicology screens on September

29, October 8, October 13, October 14, and October 15, 2004. The HPIP had previously submitted three (3) other Reports of Noncompliance against Ms. Hake. The first report, dated September 15, 2003, pertained to a positive urine drug screen for propoxyphene, a Schedule IV controlled substance, she had submitted that same day. Ms. Hake was asked to refrain from practice and referred to residential treatment. In the second report, dated February 26, 2003, Ms. Hake was cited for missing a call to NCPS on February 20, 2004, which was a test day, and for failing to send in monthly reports for January 2004. Pre-dismissal and non-compliance letters were sent to her. In the third instance, Ms. Hake was found to be non-compliant with her HPIP contract(s) in that she had relapsed in May 2004 with alcohol and diversion of opiates, failed to attend or call and cancel group therapy appointments in the first week of September 2004, submitted diluted urine on August 30 and 31, 2004, and submitted a urine drug screen positive for alcohol at a .29 level, on September 7, 2004.

3. During the course of her employment at the Plastic Surgery Center of Hampton Roads ("Center"), Newport News, Virginia, where she was under a work site monitoring contract through the HPIP prohibiting her from accessing and giving narcotics, Ms. Hake violated § 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 Board of Nursing. Specifically:

a. By her own admission, from January to April 2004, Ms. Hake requested and received Percocet 7.5/500 (oxycodone and acetaminophen), a Schedule II controlled substance, and Vicodin 5/500 (hydrocodone and acetaminophen), a Schedule III controlled substance, from the Center's recovery room nurses. She accomplished these diversions by signing out the Percocet and Vicodin under patients' names in the narcotics

logs. From January 26, 2004, until April 16, 2004, Ms. Hake signed Percocet out for 20 patients, and Vicodin out for 12 patients, in the narcotics log. She documented in several patients' charts that they had received the medication; however, when these patients were questioned, they denied ever having received these narcotics. In some cases, Ms. Hake generated chart paperwork documenting treatments and medication for patients who were not seen on those dates for treatments.

b. By her own admission, Ms. Hake acquired 26 pre-signed prescription blanks from four (4) Center physicians for patients coming in for pre-operative histories and physical appointments. She subsequently filled in the bodies of the prescription blanks to receive Percocet, Darvocet (propoxyphene hydrochloride), a Schedule IV controlled substance, Vicodin, and Vicodin ES ((hydrocodone and acetaminophen), a Schedule III controlled substance, for her personal use. She filled most of these prescriptions in person at local pharmacies and paid for them with her insurance. All of the physicians denied ever prescribing Ms. Hake these narcotics. On April 21 and April 26, 2004, Ms. Hake called in prescriptions for Vicodin ES, identifying herself as one of the Center's surgical technicians; however, when questioned, the surgical technician denied making such calls.

c. In early January 2004, Ms. Hake gave Valium (diazepam), a Schedule IV controlled substance, to a patient. When confronted by her work site monitor about how she had obtained the medication, she admitted she removed the keys to the narcotics cabinet from the pocket of her work site monitor's lab coat, which was in her (the work site monitor's) office.

d. Ms. Hake misrepresented facts on her application for employment at the Center,

Consent Order – Diane Hake, R.N.

in that she did not state the reason for leaving her employment at Plastic Surgery Specialists, Annapolis, Maryland, where she worked from August 1996 to August 1999. Specifically, her employment was terminated after it was discovered she was calling in prescriptions for herself for Darvon, Darvocet, and Valium and two Schedule III controlled substances Vicodin and Lortab (hydrocodone), using physician DEA numbers.

e. Ms. Hake's employment was terminated on May 3, 2004, for failure to show up for work.

CONSENT

Diane Hake, R.N., by affixing her signature hereon, agrees to the following:

1. Ms. Hake acknowledges that she has been specifically advised to seek advice of counsel prior to signing this document;
2. Ms. Hake acknowledges that she is fully aware that without her consent, no legal action can be taken against her except pursuant to the Virginia Administrative Process Act, § 2.2-4000.A et seq., of the Code of Virginia (1950), as amended;
3. Ms. Hake acknowledges that she has the following rights among others: the right to an informal fact finding conference before the Board, to reasonable notice of said administrative proceeding, to representation by counsel, and the right to present witnesses and evidence on her behalf;
4. Ms. Hake waives all such right to an informal conference;
5. Ms. Hake admits to the above Findings of Fact;
6. Ms. Hake consents to the entry of the following Order affecting her practice of professional nursing in the Commonwealth of Virginia.

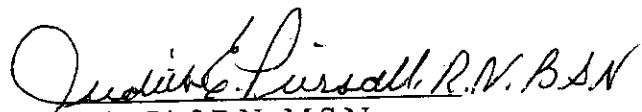
ORDER

WHEREFORE, on the basis of the foregoing, the Virginia Board of Nursing, effective upon entry of this Consent Order, and in lieu of further proceedings, hereby ORDERS that License No. 0001-173517 issued to Diane Hake, R.N., be and hereby is INDEFINITELY SUSPENDED. At such time as Ms. Hake shall petition the Board for reinstatement of her license, an administrative proceeding will be convened to receive evidence satisfactory to the Board that she is capable of resuming the safe and competent practice of nursing.

Upon entry of this Consent Order, the license of Diane Hake, R.N., will be recorded as suspended and no longer current. Consistent with the terms of this Consent Order, in the event that Ms. Hake seeks reinstatement of her license, she shall be responsible for any fees that may be required for the reinstatement and renewal of her license prior to issuance of her license to resume practice.

Pursuant to Sections 2.2-4023 and 54.1-2400.2 of the Code of Virginia (1950), as amended, the signed original of this Consent 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


Louisa Lief, R.N., M.S.N.
President for the
Virginia Board of Nursing

ENTERED: September 20, 2005

SEEN AND AGREED TO:

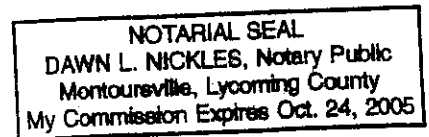
Diane Hake

COMMONWEALTH OF VIRGINIA,
COUNTY/CITY OF _____, TO WIT:

Subscribed and sworn to before me, Dawn L. Nickles, a Notary Public, this
15th day of SEPTEMBER, 2005.

My commission expires the 24 day of OCT, 2005

Dawn L. Nickles
NOTARY PUBLIC



Certified True Copy

By DH 9/23/05
Virginia Board of Nursing