

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

**MARY KATHERINE CUMMINGS, R.N.
LICENSE NO.: 0001-081858**

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 September 12, 2011, in Henrico County, Virginia, to inquire into evidence that Mary Katherine Cummings, R.N., may have violated certain terms and conditions imposed on her, as set forth in the Order of the Board entered on December 8, 2009. The case was presented by David W. Kazzie, Adjudication Specialist, Administrative Proceedings Division. Amy Marschean, Senior Assistant Attorney General, was present as legal counsel for the Board. Ms. Cummings was present and was not represented by legal 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. Mary Katherine Cummings, R.N., was issued License No. 0001-081858 to practice professional nursing in the Commonwealth on September 1, 1981. Ms. Cummings' primary state of residence is Virginia.
2. On December 8, 2009, the Board entered an Order indefinitely suspending Ms. Cummings's license to practice professional nursing in the Commonwealth ("Board's Order"). The Board stayed the indefinite suspension upon proof of Ms. Cummings' re-entry into the Health Practitioners' Monitoring Program.
3. Ms. Cummings signed a Participation Contract with the Health Practitioners' Monitoring Program on November 20, 2009, and five Recovery Monitoring Contracts with HPMP between December 7, 2009, and January 10, 2011.

4. Between December 16, 2009, and December 24, 2010, Ms. Cummings missed six calls for urine drug screens. She was tardy in submitting her Self-Reports due on March 31, 2010 and June 30, 2010, she failed to return a Recovery Monitoring Contract as required, and she failed to contact her case manager in February 2011 and March 2011.

5. On June 17, 2011, Ms. Cummings was dismissed from the HPMP for noncompliance with her program contract. The Board summarily rescinded the Stay of Indefinite Suspension on June 29, 2011.

6. Ms. Cummings' HPMP case manager said Ms. Cummings' eligibility to reenter HPMP would be at the discretion of the HPMP medical director.

7. Ms. Cummings' supervisor at the University of Virginia Health System testified that Ms. Cummings' work performance as a nurse and in her current non-nursing job is above average. In her opinion, Ms. Cummings is not using drugs, and she stated that recent drug urine screens administered at the workplace since her suspension have all been negative. Her shortcoming as an employee is that she is a poor time manager; however, her supervisor stated her recovery is a priority for her. Her supervisor testified further that she would be willing to reinstate Ms. Cummings to a nursing position.

8. Ms. Cummings testified that she is a recovering addict. She had been a nurse for thirty years and worked hard to return to a level of respectability and to ensure her patients' safety. She believes Narcotics Anonymous (NA) has saved her life. She attends a minimum of five NA meetings a week. Her sobriety date is August 20, 2006. She admits, as was pointed out by her supervisor, that she is so wrapped up in her recovery that she can't manage her life. She recognizes that paperwork is not her strong point and seeks the assistance of people like her supervisor to keep her accountable and react less emotionally and more rationally. She would like to be given the opportunity to return to the HPMP.

CONCLUSIONS OF LAW

The Board concludes that Findings of Fact Nos. 4 and 5 constitute a violation of Term No. 5(a) of the Board's Order.

ORDER

WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS as follows:

1. Mary Katherine Cummings, R.N., is hereby REPRIMANDED.

2. License No. 0001-081858, issued to Mary Katherine Cummings, R.N., to practice professional nursing in the Commonwealth of Virginia, is hereby INDEFINITELY SUSPENDED. Said suspension shall be STAYED upon proof that Ms. Cummings has entered into a Recovery Monitoring Contract with the Health Practitioners' Monitoring Program ("HPMP") and upon the condition that she remain compliant with the terms of a Recovery Monitoring Contract with the HPMP and the following terms and conditions:

a. Ms. Cummings shall comply with all terms and conditions for the period specified by the HPMP.

b. Any violation of the terms and conditions stated in this Order shall be reason for summarily rescinding the stay of indefinite suspension of the license of Ms. Cummings, and an administrative proceeding shall be held to decide whether her license shall be revoked. The stay of indefinite suspension may be summarily rescinded at such time the Board is notified that:

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

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

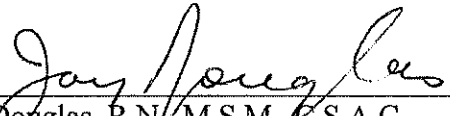
3. Upon receipt of evidence of Ms. Cummings' participation in and successful completion of the terms specified by the HPMP, the Committee, at its discretion, may waive Ms. Cummings' appearance before the Committee, and conduct an administrative review of this matter, at which time she may be issued an unrestricted license.

4. This Order shall be applicable to Ms. Cummings' multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. It is further ordered that for the duration of this Order, Ms. Cummings may not work outside of the Commonwealth of Virginia pursuant to a multistate licensure privilege without the written permission of the Virginia Board of Nursing and the Board of Nursing in the party state where she wishes to work.

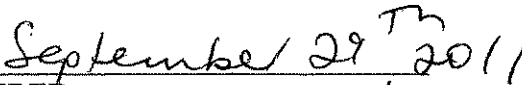
5. Ms. Cummings shall maintain a course of conduct in her capacity as a professional nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

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



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



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, Henrico, 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.