

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

DEBORAH B. D. KAVANAUGH, L.P.N.

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 April 8, 2009, in Henrico County, Virginia. Deborah B. D. Kavanaugh, L.P.N., was present and was not represented by legal counsel. Jane Elliott, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On May 20, 2009, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Kavanaugh 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. Deborah B. D. Kavanaugh, L.P.N., was issued License No. 0002-037946 to practice as a practical nurse in Virginia on November 20, 1986. The license is current and scheduled to expire on February 28, 2011.

2. By letter dated February 27, 2009, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Kavanaugh notifying her that an informal conference would be held on April 8, 2009. The Notice was sent by certified and first class mail to 18 Kiowa Lane, Palmyra, Virginia 22963, the address of record on file with the Board of Nursing.

3. By her own admission, on May 31, 2008, during the course of her employment with the Colomades Health Care Center, Charlottesville, Virginia, Ms. Kavanaugh diverted Percocet (oxycodone,

Schedule II) for her own personal and unauthorized use. As a result, her employment was terminated. Ms. Kavanaugh stated at the informal conference that she was prescribed Percocet in 2007, following a dental procedure, and found that the medication was beneficial in causing her to feel “numb.” She stated that she used the diverted Percocet over a two to three-day period for the purpose of “numbing” her “emotional depression.” She also stated that she continues to have depression and anxiety.

4. Ms. Kavanaugh was charged with felony prescription fraud in the Albemarle County General District Court, and her case is currently scheduled to be heard in May 2009. At the informal conference, Ms. Kavanaugh stated that she is anticipating that she will be granted first offender status, and that the felony charged will be reduced to a misdemeanor. She also stated that since June 2008, she has met weekly with a pre-trial hearing officer. She indicated that during these meetings, she has submitted to urine drug screens. She reported that the results of all these urine drug screens have been negative, but she provided no documentation to corroborate this statement.

5. During the informal conference, Ms. Kavanaugh responded to questions with behavior that appeared to be sarcastic and defiant. Additionally, she intellectualized her behavior, as evidenced by her statement that her feelings of depression were normal and appropriate due to the personal stressors in her life. She indicated that she has been in individual outpatient therapy of her own accord with a licensed clinical social worker one day a week since July 2008. According to a letter written by this therapist, Ms. Kavanaugh declined the therapist’s “offer for a psychiatric referral to assess the need for medication ... opting to do the hard work of therapy unaided.” Ms. Kavanaugh stated that she refused the referral because she does not want to take any medication. It was also noted that Ms. Kavanaugh submitted to a substance evaluation with a certified substance abuse counselor with the Region Ten Community Services Board, Charlottesville, Virginia, who reported that he believed Ms. Kavanaugh’s short-term use of drugs resulted from recent stress; however, he also recommended that she seek monitoring through the

Department of Health Professions. When interviewed by an investigator with the Department of Health Professions on July 7, 2008, Ms. Kavanaugh was provided information regarding the Health Practitioners' Intervention Program ("HPIP"), but did not contact the program. However, at the informal conference, she stated that she was willing to do whatever the Board required.

6. Ms. Kavanaugh stated that she has been working as a private duty nurse since June 2008, and further stated that she does not administer medications in the course of her duties.

CONCLUSIONS OF LAW

Finding of Fact #3 constitutes a violation of § 54.1-3007(2), (5) and (6) of the Code, and 18 VAC 90-20-300(A)(2)(c) of the Regulations Governing the Practice of Nursing.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. License No. 0002-037946 of Deborah B. D. Kavanaugh, L.P.N., is INDEFINITELY SUSPENDED.
2. The license will be recorded as suspended and no longer current.
3. This suspension applies to any multistate privilege to practice practical nursing.
4. At such time as Ms. Kavanaugh 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. Kavanaugh 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 shall be STAYED upon proof of Ms. Kavanaugh's entry into a Recovery Monitoring 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. At such time, the indefinite suspension shall be STAYED and the following terms and conditions shall apply:

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

b. Any violation of the terms and conditions of the HPIP or any 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. Kavanaugh, and an administrative proceeding shall be held to determine 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. Kavanaugh is not in compliance with the terms and conditions specified by the HPIP;

ii. Ms. Kavanaugh's participation in the HPIP has been terminated;

iii. There is a pending investigation or unresolved allegation against Ms. Kavanaugh involving a violation of law, regulation, or any term or condition of this order.

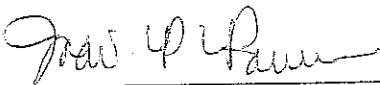
6. This Order is applicable to Ms. Kavanaugh's multistate licensure privileges, if any, to practice practical nursing in the Commonwealth of Virginia. For the duration of this Order, Ms. Kavanaugh shall not work outside of the Commonwealth of Virginia pursuant to a multistate licensure privilege without the written permission of the Virginia Board of Nursing and the Board of Nursing in the party state where she wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

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

This Order is subject to appeal to the Board. If Ms. Kavanaugh desires a formal administrative hearing before the Board pursuant to §§ 2.2-4020 and 2.2-4021 of the Code, she must notify Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233, in writing, within thirty-three (33) days from the date of service of this Order. Upon the filing of a request for the hearing with the Executive Director, this Order shall be vacated.

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.

FOR THE BOARD

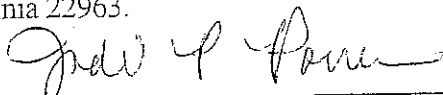


Jay P. Douglas, R.N., M.S.M., C.S.A.C.
Executive Director
Board of Nursing

Entered: May 28, 2009

Certificate of Service

I hereby certify that a true copy of the foregoing Order was mailed this day to Deborah B. D. Kavanaugh, L.P.N., at 18 Kiowa Lane, Palmyra, Virginia 22963.



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

May 28, 2009
DATE

Certified True Copy
By 
Virginia Board of Nursing