

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: MICHAEL DAY, R.N.
 License No.: 0001-128900**

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 22, 2014, in Henrico County, Virginia. Michael Day, R.N., was present and was not represented by legal counsel. Judith Piersall, R.N., B.S.N., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On July 16, 2014, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mr. Day was not present nor was he 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. Michael Day, R.N., was issued License No. 0001-128900 to practice professional nursing in Virginia August 28, 1992. The license is scheduled to expire on March 31, 2016. Mr. Day's primary state of residence is Virginia.

2. By letter dated March 31, 2014, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Mr. Day notifying him that an informal conference would be held on April 22, 2014. The Notice was sent by certified and first class mail to 104 Rural Retreat Road, Yorktown, Virginia 23692, the address of record on file with the Board of Nursing.

3. During the course of his employment with Behavioral Health Service at HCA John

Randolph Medical Center, Hopewell, Virginia, Mr. Day self-reported to his nurse manager that he would not be into on October 2, 2013, as he had an admitted addiction to alcohol that needed treatment. On October 3, 2013, Mr. Day began substance abuse treatment, where he was diagnosed with alcohol dependence, severe with denial of severity. Mr. Day was also diagnosed with an adjustment disorder with anxiety and depression.

4. Mr. Day stated that his date of sobriety is October 3, 2013, and that he has recently received his six month chip from Alcoholics Anonymous. Mr. Day stated that he has a sponsor and attends several meetings a week, even if he is not in the area of his home meeting.

5. Mr. Day is currently working the Twelve Steps. As part of Step 9, Mr. Day apologized to the Board for his past actions.

6. Mr. Day's treating psychologist, Chris Lindemann, Ph.D., opined that Mr. Day is safe to practice on the condition that he enroll into the Virginia Health Practitioners' Monitoring Program to insure his recovery.

7. Mr. Day provided letters of support from his employment supervisors and his sponsor.

8. As of the date of the informal conference, Mr. Day had returned to work and remains employed at John Randolph, practicing without incident or evidence of impairment.

CONCLUSIONS OF LAW

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(6) of the Code.

2. Based on the above Findings of Fact, Mr. Day is a candidate for the Health Practitioners' Monitoring Program ("HPMP").

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. The Board shall TAKE NO ACTION contingent on the following conditions:

a. Mr. Day shall enter into the HPMP, pursuant to § 54.1-2515 *et seq.* of the Code and 18 VAC 76-10-10 *et seq.* of the Regulations Governing the HPMP, and shall have proof of entry into a Contract with the HPMP provided to the Board within 45 days of the date this Order is entered.

b. Mr. Day shall comply with all terms and conditions for the period specified by the HPMP.

2. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Mr. Day, and an administrative proceeding shall be held to decide whether his license should be revoked. Mr. Day shall be noticed to appear before the Board at such time as the Board is notified that:

a. Mr. Day has failed to make application to the HPMP;

b. Mr. Day is not in compliance with the terms and conditions of the HPMP, or has been terminated from participation in the HPMP;

c. There is a pending investigation or unresolved allegation against Mr. Day involving a violation of law or regulation or any term or condition of this Order; or

d. Mr. Day has successfully completed the above-referenced period of participation in the HPMP. However, upon receipt of Mr. Day's participation in and compliance with the HPMP, the Board, at its discretion, may waive Mr. Day's appearance before the Board and conduct an administrative review of this matter.

3. This Order is applicable to Mr. Day's multistate licensure privileges, if any, to practice professional nursing. For the duration of this Order, Mr. Day 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 Mr. Day wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive

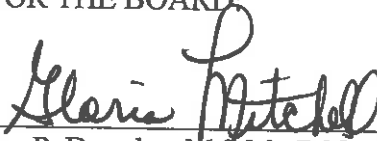
Director of the Board.

4. Mr. Day shall maintain a course of conduct in his 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 § 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.

Pursuant to Section 54.1-2400(10) of the Code, Mr. Day may, not later than 5:00 p.m., on **September 1, 2014**, notify Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing that he/she desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

FOR THE BOARD:



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

ENTERED July 30, 2014

This Order shall become final on September 1, 2014, unless a request for a formal administrative hearing is received as described above.

Certified True Copy

By G. Robinson-Howers
Virginia Board of Nursing

9-1-2014