

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

ELIZABETH KESTNER, L.P.N.

License No.: 0002-054832

ORDER

Pursuant to §§ 2.2-4019, 2.2-4021, and 54.1-2400(10) of the Code of Virginia (1950), as amended ("Code"), a Special Conference Committee ("Committee") of the Virginia Board of Nursing ("Board") met on August 13, 2012, in Henrico County, Virginia, to inquire into evidence that Elizabeth Kestner, L.P.N., may have violated certain laws and regulations governing nursing practice in Virginia. Ms. Kestner was present and was not represented by counsel.

Upon consideration of the evidence, the Committee adopts the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Elizabeth Kestner, L.P.N., was issued License No. 0002-054832 to practice practical nursing by the Virginia Board of Nursing on June 25, 1997. Said license is set to expire on May 31, 2013. Ms. Kestner's primary state of residence is Virginia.
2. By letter dated July 18, 2012, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Kestner notifying her that an informal conference would be held on August 13, 2012. The Notice was sent by certified and first class mail to 11328 Cedar Run Road, Petersburg, Virginia 23805, the address of record on file with the Board of Nursing. The Notice was also sent to 27007 Perkins Road, Petersburg, Virginia 23805.
3. On July 20, 2010, Ms. Kestner entered into a Participation Contract with the Health Practitioners' Monitoring Program ("HPMP"), where she acknowledged that she suffers from a substance abuse disorder, and identified her drug of choice as oxycodone (C-II).

4. On October 14, 2011, Ms. Kestner was dismissed from the HPMP due to her noncompliance with her Recovery Monitoring Contract. On August 22, 2011, Ms. Kestner submitted a "severely" diluted urine drug screen. On September 2, 2011, Ms. Kestner was scheduled for a hair test, but failed to show. On September 15, 2011, Ms. Kestner reported to her case manager that she was dismissed from her aftercare group due to lack of attendance. On September 26, 2011, Ms. Kestner was rescheduled for a hair test, but failed to show.

5. Ms. Kestner stated that she resigned from the HPMP due to financial difficulties.

6. Ms. Kestner has been employed with Southside Regional Medical Center, Petersburg, Virginia, for four years. Ms. Kestner stated that her employer is aware of her substance abuse issues. She is randomly drug tested by the facility two to three times a month. Ms. Kestner does not have access to narcotics at work.

7. Ms. Kestner stated that she attends Narcotics Anonymous two to three times a week. Ms. Kestner's date of sobriety is July 18, 2010.

CONCLUSIONS OF LAW

Findings of Fact Nos. 3 and 4 constitute a violation of § 54.1-3007(6) of the Code.

ORDER

On the basis of the foregoing, the Committee hereby ORDERS as follows:

1. Ms. Kestner shall be placed on PROBATION for a period of one year of actual nursing practice and subject to the following terms and conditions:

a. The period of probation shall begin on the date that this Order is entered and shall end at such time as Ms. Kestner has completed one year of active employment as a licensed practical nurse. The license of Ms. Kestner shall be reinstated without restriction at the completion of the probationary period without a hearing unless there is a pending investigation or unresolved allegation involving a violation of law,

regulation or any term or condition of probation. In that event, the period of probation shall be continued indefinitely or until such time as the Board makes a case decision in accordance with the Administrative Process Act, § 2.2-4000 et seq. and § 54.1-2400(9) et seq. of the Code.

b. Ms. Kestner shall inform the Board in writing within ten days of the date she begins nursing practice, or changes employment, or if any interruption in nursing practice occurs. Additionally, Ms. Kestner shall provide the name and address of each employer to the Board.

c. Ms. Kestner shall inform her current nursing employer that the Board has placed her on probation and shall provide each employer with a complete copy of this Order. If Ms. Kestner is employed through a staffing agency, she shall inform her supervisor in each facility where assigned that she is on probation.

d. Performance Evaluations shall be provided, at the direction of Ms. Kestner, by all nursing employer(s), as provided by the Compliance Division. The first report must be received in the Board office no later than 60 days from the date this Order is entered. Subsequent reports must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends.

e. Ms. Kestner shall not administer any Schedule II - V controlled substances, the Schedule VI controlled substance Nubain, or any other controlled substances designated by the Board.

f. Ms. Kestner shall not use alcohol or any other mood altering chemical, except as prescribed by a health care practitioner with whom she has a bona fide practitioner/patient relationship and for accepted medicinal or therapeutic purposes. Should she be prescribed any Schedule II-V controlled medication, a written report from the prescribing practitioner shall be provided to the Board within ten days of the date the medication is prescribed.

g. Ms. Kestner shall be required to have two supervised, unannounced random drug screens a month, from a Board approved testing entity, which includes testing for alcohol and the following drug of

choice: opiates. Ms. Kestner shall ensure that the first set of results is received by the Board no later than 60 days from the date this Order is entered. Subsequent results must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends. The Board shall be notified immediately in writing of any positive results or if Ms. Kestner refuses to give a specimen for analysis as required by this Order. All positive results must be confirmed by a confirmatory drug test, the results of which are to be sent to the Board immediately. The Board will accept the current arrangement of drug screening she has with her employer.

h. Ms. Kestner shall provide all current and future treating practitioners with a complete copy of this Order and shall execute an Authorization for Disclosure of Information form providing for unrestricted communication between the Board and any court-appointed probation or parole officers and any consultants designated by the Board.

i. Ms. Kestner shall submit quarterly "Self-Reports" which include a current address, telephone number, and verification of all current employment. These reports shall also include any changes in employment status. The first report must be received in the Board office no later than 60 days from the date this Order is entered. Subsequent reports must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends.

j. Ms. Kestner shall return all copies of her license to practice as a licensed practical nurse to the Board office within ten days of the date of entry of this Order along with a payment of a fee of \$15.00. Upon receipt, the Board shall issue a new license marked "Valid in Virginia Only; Probation with Terms."

2. This order shall be applicable to Ms. Kestner's multistate licensure privilege, if any, to practice practical nursing in the Commonwealth of Virginia. For the duration of this Order, Ms. Kestner shall not work outside 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 Ms.

Kestner wishes to work. Any request for out of state employment shall be directed, in writing, to the Executive Director of the Board.

3. Any violation of the stated terms and conditions contained in this Order, or failure to comply with all terms of this Order within five years of the date of entry of the Order, shall be reason for suspending or revoking the license of Ms. Kestner and an administrative proceeding may be held to determine whether her license shall be suspended or revoked.

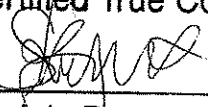
4. Ms. Kestner shall maintain a course of conduct in her capacity as a licensed practical nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

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.

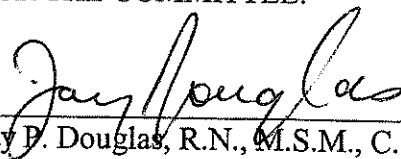
Pursuant to Section 54.1-2400(10) of the Code, Ms. Kestner may, not later than 5:00 p.m., on October 19, 2012 notify Jay P. Douglas, Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing that she desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

FOR THE COMMITTEE:

Certified True Copy

By 

Virginia Board of Nursing


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

ENTERED: September 17th, 2012

This Order shall become final on October 19, 2012 unless a request for a formal administrative hearing is received as described above.