

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: DELANA T. BOGGESS, R.N. REINSTATEMENT APPLICANT

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 10, 2010, in Henrico County, Virginia, to receive and act upon the application of Delana T. Boggess for reinstatement of her license to practice professional nursing in Virginia and to receive and act upon evidence that Ms. Boggess may have violated certain laws governing professional nursing practice. Ms. Boggess was present and was not represented by legal counsel.

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

FINDINGS OF FACT

1. Delana T. Boggess was issued License No. 0001-181993 to practice professional nursing in the Commonwealth of Virginia on October 16, 2002. By Order entered May 5, 2004, the Board summarily suspended Ms. Boggess’ license to practice professional nursing. By Order entered May 27, 2004, following a formal hearing, Ms. Boggess’ license was continued on indefinite suspension for not less than three years, due to findings of fact that Ms. Boggess diverted and adulterated drugs for her personal and unauthorized use. By Order entered February 29, 2008, the Board denied Ms. Boggess’ application for reinstatement due to her failure to appear and present evidence that she was safe and competent to practice. Ms. Boggess holds License No. RI56872 to practice professional nursing in the State of Maryland, which is set to expire on October 28, 2010. Ms. Boggess holds License No. 40698 to practice professional nursing in

the State of West Virginia, which expired on December 31, 2004. Her primary state of residence is West Virginia.

2. Ms. Boggess submitted an application for reinstatement of her license to practice professional nursing which was received by the Board on March 19, 2010.

3. By letter dated July 9, 2010, the Board of Nursing sent a Notice of Informal Conference (“Notice”) to Ms. Boggess notifying her that an informal conference would be held on August 10, 2010. The Notice was sent by certified and first class mail to 1789 Roxalana Road, Dunbar, West Virginia 25064, the address of record on file with the Board of Nursing.

4. On February 27, 2007, the Maryland Board of Nursing entered an Order reinstating Ms. Boggess’ license to practice professional nursing on probation with terms and conditions for a period of five years.

5. During an interview with an investigator from the Department of Health Professions on May 19, 2010, the Coordinator for Discipline and Rehabilitation with the Maryland Board of Nursing reported that Ms. Boggess was in full compliance with the terms and conditions of the order.

6. Ms. Boggess presented a letter dated August 2, 2010, in which the West Virginia Board of Nursing has offered to enter a Consent Agreement with Ms. Boggess to suspend her license and stay the suspension for one year contingent upon compliance with certain terms and conditions to include placing her license on probation for three years employment as a registered professional nurse.

7. Ms. Boggess reported a sobriety date of May 17, 2004. She has been in treatment with Nancy Burkhammer, L.P.C., since April 2006, and currently sees her once a month. Ms. Burkhammer submitted a letter dated June 3, 2010, confirming Ms. Boggess’ compliance with treatment and reported that Ms. Boggess has been diagnosed with a mood disorder, for which she is seeing a psychiatrist. Ms. Boggess reported that she is currently prescribed Topamax and Wellbutrin and sees her psychiatrist every three

months. From February 2006 to April 2010, Ms. Boggess participated in the West Virginia Page Group, a professional advocacy group; however, that group is no longer in existence. Upon entry of the proposed Consent Agreement from the West Virginia Board of Nursing, Ms. Boggess will be required to see her counselor twice a month and attend AA/NA meetings four times a week. Ms. Boggess stated that she did not attend the informal conference when the Board considered her application for reinstatement in February, 2008, due to family illness. She has not practiced nursing since 2004. She has employment prospects with a case management agency; however, her name is on the exclusions list with the Office of the Inspector General due to the suspension of her license in Virginia. Ms. Boggess presented certificates of completion of 29 hours of continuing education, in addition to completing other health occupations courses.

CONCLUSIONS OF LAW

1. Finding of Fact No. 4 constitutes a violation of § 54.1-3007(7) of the Code.
2. The Board concludes that Ms. Boggess has demonstrated satisfactory evidence that she is prepared to resume practice in a safe and competent manner.

ORDER

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

1. The license of Delana T. Boggess to practice professional nursing in the Commonwealth of Virginia is hereby REINSTATED. Ms. Boggess is hereby placed on PROBATION for a period of three years of actual nursing practice, subject to the following terms and conditions.
2. The period of probation shall begin on the date that this Order is entered and shall end at such time as Ms. Boggess has completed three years of active employment as a professional nurse. The license of Delana T. Boggess 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.

3. Ms. Boggess shall inform the Board in writing within ten (10) days of the date she begins nursing practice, or changes employment, or if any interruption in nursing practice occurs. Additionally, Ms. Boggess shall provide the name and address of each employer to the Board.

4. Ms. Boggess shall inform her current nursing employer and each future nursing employer that the Board has placed her on probation and shall provide each employer with a complete copy of this Order.

5. Performance Evaluations shall be provided, at the direction of Ms. Boggess, by all nursing employers, as provided by the Compliance Manager. The first report must be received in the Board office no later than sixty (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.

6. Ms. Boggess shall practice nursing only in a structured, supervised employment setting satisfactory to the Board during the period of probation. This employment setting shall provide on-site supervision by a professional nurse, who works the same shift and holds an unrestricted license. For all current nursing employment, and before beginning or changing nursing employment during this period, Ms. Boggess shall have current and all prospective employers provide a written description of the employment setting to the Board office for approval.

7. Ms. Boggess shall not administer any Schedule II - V controlled substances, the Schedule VI controlled substance Nubain, psychotropic medications or any other controlled substances designated by the Board. Further, Ms. Boggess shall not have access to locked or other storage areas in which such medications are kept.

8. Ms. Boggess 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 (10) days of the date the medication is prescribed.

9. Ms. Boggess shall be required to have two supervised, unannounced random drug screens, from a Board approved testing entity, which includes testing for alcohol and opioids. Ms. Boggess shall ensure that the first set of results are received by the Board no later than sixty (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. Boggess 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.

10. Ms. Boggess shall attend AA/NA recovery support groups or other groups acceptable to the Board four times per week and shall have written evidence of attendance by a sponsor or contact person sent to the Board quarterly.

11. Ms. Boggess 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.

12. Ms. Boggess 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 sixty (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.

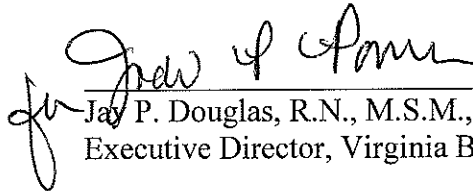
13. The Board shall issue a license marked “Valid in Virginia Only; Probation with Terms.”

14. Ms. Boggess 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.

15. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Delana T. Boggess and an administrative proceeding shall be held to decide whether her license shall be revoked.

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 COMMITTEE



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

ENTERED: August 27, 2010

NOTICE OF RIGHT TO FORMAL HEARING

If you do not consent to the Committee's decision and desire a hearing before the Board or a panel thereof, you shall notify, in writing, the Executive Director of the Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233, within 33 days of the date of entry of this Order. This Order shall become final upon expiration of the 33-day period unless a request for a formal hearing is received within such time. Upon receiving a timely request for a hearing, this Order shall be vacated and the Board or a panel thereof shall proceed with a hearing as provided in § 2.2-4020 *et seq.* of the Code.