



COMMONWEALTH of VIRGINIA

Robert A. Nebiker
Director

Department of Health Professions
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Virginia Board of Nursing
Jay P. Douglas, RN, MSM, CSAC
Executive Director

May 5, 2004

Board of Nursing (804) 662-9909
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FAX (804) 662-9512

Delana Michelle Toney Boggess, R.N.
8238A Elswick Lane
Richmond, Virginia 23294

CERTIFIED MAIL
7160 3901 9848 3160 0398

RE: Notice of Formal Hearing
May 19, 2004 at 2:00 p.m.
License No. 0001-181993, Exp: 10/31/2004

Dear Ms. Boggess:

On April 30, 2004, the Virginia Board of Nursing received investigative information indicating that you may have violated certain sections of the Code of Virginia (1950), as amended. Based on the evidence considered, the Board voted to summarily suspend your license to practice professional nursing in the Commonwealth of Virginia pending a hearing. The Order of Summary Suspension is enclosed.

Also enclosed is a Notice of Hearing and Statement of Particulars. The hearing will be held on **May 19, 2004, at 2:00 p.m.**, at the offices of the Department of Health Professions, 6603 West Broad Street, Fifth Floor, Richmond, Virginia.

Should you desire not to contest the allegations contained in the Statement of Particulars, the Board has authorized me to offer you a Consent Order for the suspension of your license for an indefinite period of time. At such time as you believe you are able to resume the competent practice of nursing with reasonable skill and safety to patients, you may petition for the reinstatement of your license. If you are willing to accept the Consent Order, you should sign it before a Notary Public and return all pages to this Office within ten (10) days of receipt and the hearing scheduled for May 19, 2004, will be canceled.

You have the following rights, among others: to be represented by legal counsel, to have witnesses subpoenaed on your behalf, to present documentary evidence and to cross-examine adverse witnesses. Should you wish to subpoena witnesses, requests for subpoenas must be made in writing in accordance with the enclosed Instructions for Requesting Subpoenas.

You have the right to have a copy of the investigative report and supporting documents, which may be used as evidence at your hearing. These documents are enclosed only with the original notice sent by certified mail, and must be claimed at the post office. Please bring these documents with you. Prior to the hearing, it is the

Board's intention to distribute these documents to the members of the Board who will conduct the hearing. If you have any objections to the materials, please contact Grant E. Kronenberg, Senior Adjudication Analyst at (804) 662-7416 before May 12, 2004. If you do not object to this proposed distribution before May 12, 2004, the Board will assume that you have no objection to the Board members' prior review of the documents. Failure to object to the distribution prior to the hearing will not affect your right to contest any information contained in these documents at the hearing. Further, to facilitate this hearing, the Board requests that you provide to Grant E. Kronenberg, Senior Adjudication Analyst, Administrative Proceedings Division, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia 23230, **twenty (20) copies** of any documents you intend to introduce into evidence at least ten (10) business days before the hearing.

We remind you that you have the right to seek legal counsel before making any decisions in this matter. Please advise us whether or not you plan to be present for the hearing no later than May 12, 2004.

Sincerely,

A handwritten signature in black ink that reads "Jay Douglas". The signature is written in a cursive, flowing style.

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

Enclosures

cc: Robert A. Nebiker, Director, Department of Health Professions
James L. Banning, Director, Administrative Proceedings Division
William C. Garrett, Assistant Attorney General
Grant E. Kronenberg, Senior Adjudication Analyst
Pamela Twombly, R.N., Regional Enforcement Manager (93264)

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: DELANA MICHELLE TONEY BOGGESS, R.N.

NOTICE OF HEARING

Pursuant to § 2.2-4020, § 2.2-4021, § 54.1-110 and § 54.1-2400(11) of the Code of Virginia (1950), as amended, Delana Michelle Toney Boggess, R.N., who holds License No. 0001-181993, currently expiring October 31, 2004, is hereby given notice that, pursuant to § 2.2-4024(F), a formal administrative hearing will be held in the presence of a panel of the Board of Nursing ("Board"). The hearing will be held on May 19, 2004, at 2:00 p.m., at the offices of the Department of Health Professions, 6603 West Broad Street, Fifth Floor, Richmond, Virginia, at which time Ms. Boggess will be afforded the opportunity to be heard in person or by counsel.

At the hearing, Ms. Boggess has the following rights, among others: the right to representation by counsel, the right to have witnesses subpoenaed and to present witnesses on her behalf, the right to present documentary evidence and the right to cross-examine adverse witnesses. If Ms. Boggess desires any witnesses to appear on her behalf, she must notify the Director of Administrative Proceedings, 6603 West Broad Street, 5th Floor, Richmond, Virginia 23230-1712, in accordance with the Instructions for Requesting Subpoenas.

The purpose of the hearing is to receive and act upon evidence that Ms. Boggess may have violated certain laws and regulations governing the practice of nursing in Virginia, as more fully set forth in the Statement of Particulars below.

STATEMENT OF PARTICULARS

The Board alleges:

1. On or about January 21, 2004, Ms. Boggess entered into a Participation Contract with the Health Practitioners' Intervention Program ("HPIP"), pursuant to Chapter 25.1 of Title 54.1 of the Code of Virginia (1950), as amended, and 18 VAC 76-10-10, et. seq., of the Regulations Governing the Health Practitioners' Intervention Program.
2. On or about April 16, 2004, Ms. Boggess was dismissed from the HPIP for non-compliance with her Participation Contract, to include missing several assessment appointments at Richmond IOP and refusing to enter any of three recommended residential treatment programs, including one that was willing to work with indigent clients.
3. Ms. Boggess may be in violation of § 54.1-3007 (2), (3), (5), (6) and (8) of the Code of Virginia and 18 VAC 90-20-300(A)(2)(c), (e) and (f) of the Board of Nursing Regulations, in that, by her own admission, during the course of her employment with Bon Secours Richmond Community Hospital, Richmond, Virginia, from October 31, 2003 to on or about November 17, 2003, Ms. Boggess diverted and adulterated Demerol (meperidine hydrochloride, Schedule II) on numerous occasions for her personal and unauthorized use. Ms. Boggess admitted to committing said diversion by gaining access to the stock through the "cancel remove" function in Pyxis. Ms. Boggess would then transfer the Demerol from the tubex into a plain syringe, replace the diverted Demerol with saline, and then return the adulterated Demerol tubex back into the patient stock. Ms. Boggess admitted to collecting approximately 200 mg of Demerol during the course of each shift. Ms. Boggess acknowledged the possibility that the adulterated doses could

be administered to patients. Ms. Boggess gave formal written resignation of her position at Bon Secours Richmond Community Hospital on November 21, 2003.

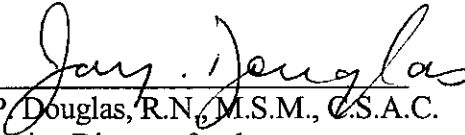
4. Ms. Boggess may be in violation of § 54.1-3007 (2), (3), (5) and (6) of the Code of Virginia, and 18 VAC 90-20-300(A)(2)(c) of the Board of Nursing Regulations, in that, between approximately June 17, 2003 and June 18, 2003, during the course of her employment with Montgomery General Hospital, Montgomery, West Virginia, she diverted Demerol for her personal and unauthorized use. As a result of this incident, on or about June 18, 2003, Ms. Boggess' employment with Montgomery General Hospital was terminated.
5. Ms. Boggess may be in violation of § 54.1-3007 (2), (3), (5) and (6) of the Code of Virginia, and 18 VAC 90-20-300(A)(2)(c) of the Board of Nursing Regulations, in that, between approximately December 8, 2001 and December 9, 2001, during the course of her employment with Jackson General Hospital, Ripley, West Virginia, she diverted Demerol on approximately ten (10) occasions and morphine sulfate (Schedule II) on approximately one (1) occasion for her personal and unauthorized use. On or about December 10, 2001, Ms. Boggess' employment was suspended.
6. Ms. Boggess may be in violation of § 54.1-3007 (2), (3), (5) and (6) of the Code of Virginia, and 18 VAC 90-20-300(A)(2)(c) of the Board of Nursing Regulations, in that, from in or about January 2001 to September 2001, during the course of her employment with Charleston Area Medical Center, Charleston, West Virginia, Ms. Boggess diverted Demerol and Xanax (alprazolam, Schedule IV). Furthermore, by her own admission, Charleston Area Medical Center terminated Ms. Boggess in or about September 2001 for repeated diversion.

7. Ms. Boggess may be in violation of § 54.1-3007 (2), (3), (5) and (6) of the Code of Virginia, and 18 VAC 90-20-300(A)(2)(c), (e) and (f) of the Board of Nursing Regulations, in that, by her own admission, during the course of her employment with Charleston Area Medical Center, on or about September 15, 1994, Ms. Boggess diverted Demerol for her personal and unauthorized use. Furthermore, Ms. Boggess documented in the medical record that she administered Demerol when in fact she had diverted it. Additionally, review of Ms. Boggess' documentation of patient narcotic usage for the period of approximately September 9, 1994 to September 15, 1994, revealed discrepancies in the record for Demerol, morphine, and Ativan (lorazepam, Schedule IV).
8. Ms. Boggess may be in violation of § 54.1-3007(7) of the Code of Virginia, in that, action has been taken against Ms. Boggess' State of West Virginia nursing license as follows:
 - a. In or about September 1994 and by her own admission, Ms. Boggess voluntarily surrendered her West Virginia professional nursing license. This surrender was memorialized in a consent agreement entered into with the West Virginia State Board of Examiners for Registered Professional Nurses ("West Virginia Board"), effective January 25, 1995. Under the terms of the surrender, Ms. Boggess – under her maiden name "Toney" – surrendered her license for six (6) months, with leave to petition for reinstatement after the six (6) month period or not until all criminal matters pending against her, specifically a criminal prescription forgery charge, are resolved, whichever is longer.

- b. In or about December 1995, Ms. Boggess petitioned the West Virginia Board for reinstatement of her license. In response to said petition, on or about February 16, 1996, the West Virginia Board approved the reinstatement of Ms. Boggess' license and suspended Ms. Boggess for one (1) year, staying the suspension contingent upon Ms. Boggess complying with the terms of the agreement. Additionally, the West Virginia Board placed Ms. Boggess on three (3) years probation. By her own admission, Ms. Boggess returned to her employment at Charleston Area Medical Center in or about March 1996.
 - c. On August 10, 1999, the West Virginia Board reinstated Ms. Boggess' license to full unencumbered status after hearing her petition for reinstatement.
9. Ms. Boggess may be in violation of § 54.1-3007(2), (4) and (5) of the Code of Virginia, and 18 VAC 90-20-300(A)(2)(c) and (e), in that, by her own admission, Ms. Boggess was convicted of a misdemeanor in 1996, related to a September 1994 prescription forgery. Ms. Boggess stole the prescription from her place of employment, Charleston Area Medical Center.
10. Ms. Boggess may be in violation of § 54.1-3007(2) of the Code of Virginia, and 18 VAC 90-20-300(A)(2)(e) of the Board of Nursing Regulations, in that, she falsified her application for employment with Bon Secours Richmond Community Hospital as follows:
- a. Ms. Boggess failed to report her employment in 2003 at Montgomery General Hospital and her employment in 2001 at Jackson General Hospital.

- b. Ms. Boggess stated “family responsibilities” as her reason for leaving Charleston Area Medical Center in September 2001. When, in fact, by her own admission, Ms. Boggess was dismissed from Charleston Area Medical Center in September 2001 for repeated diversion of Demerol and Xanax.
 - c. Ms. Boggess stated “pregnancy/family responsibilities” as her reason for leaving Charleston Area Medical Center in June 1994. When, in fact, by her own admission, Ms. Boggess diverted drugs from Charleston Area Medical Center in or about September 1994.
11. Ms. Boggess is currently licensed in West Virginia and Maryland. An administrative action is presently pending against Ms. Boggess’ license in West Virginia.

FOR THE BOARD


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

ENTERED: May 5TH, 2004