

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: MARY K. CUMMINGS, R.N.
License No.: 0001-081858

ORDER

Pursuant to §§ 2.2-4020, 54.1-110 and 54.1-2400(11) of the Code of Virginia (1950), as amended ("Code"), a formal administrative hearing was held before a panel of the Board of Nursing ("Board") on May 22, 2014, in Henrico County, Virginia, inquire into evidence that Mary K. Cummings, R.N., may have violated certain terms and conditions imposed on her, as set forth in the Order of the Board entered on September 29, 2011. The case was presented by Tammie D. Jones, Adjudication Specialist, Administrative Proceedings Division. Charis Mitchell, Assistant Attorney General, was present as legal counsel for the Board. Ms. Cummings was present and was not represented by legal counsel. The proceedings were recorded by a certified court reporter.

Upon consideration of the evidence presented, the Board adopted the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Mary K. Cummings, R.N., was issued License No. 0001-081858 to practice professional nursing in the Commonwealth of Virginia on September 1, 1981. Said license was indefinitely suspended by the Board on September 29, 2011, with said suspension stayed contingent upon Ms. Cummings' compliance with certain terms and conditions. By letter dated February 14, 2014, the stay of suspension was summarily rescinded. Ms. Cummings holds expired licenses to practice professional nursing in Texas and California. Her primary state of residence is Virginia.

2. By Order entered September 29, 2011, the Board indefinitely suspended Ms. Cummings' license to practice professional nursing with said suspension stayed contingent upon entry into and compliance with the Health Practitioners' Monitoring Program ("HPMP"). The action was based upon

findings that Ms. Cummings was dismissed from the HPMP for failing to comply with the drug screening program.

3. Ms. Cummings re-entered the HPMP on November 7, 2011.

4. On January 27, 2014, Ms. Cummings was dismissed from the HPMP due to noncompliance. The HPMP Committee determined that between December 31, 2012 and November 15, 2013, Ms. Cummings failed to call the drug screen test line five times. Between January 24, 2013 and January 10, 2014, Ms. Cummings failed to submit urine drug screens four times.

5. Ms. Cummings testified that she has been unable to be fully compliant with the HPMP and is unwilling to re-enter the program. Ms. Cummings was involved in the HPMP since 2007. Ms. Cummings testified that she does understand the importance of compliance in recovery. She went on to say that she attends three to five 12-step meetings per week, and when she goes through a hard time in her life she goes to more meetings. She stated that she leads a recovery meeting at a women's prison and presented at the hearing as open and honest about being an addict and the continuing nature of her recovery.

6. Ms. Cummings testified that she has been clean and sober since 2006. Two witnesses testified on her behalf at the hearing that as far as they can tell, Ms. Cummings has maintained her sobriety and has been an encouragement to other addicts in her community. Ms. Cummings has worked at the University of Virginia Medical Center since 2007 in several capacities. One of her coworkers testified at the hearing that Ms. Cummings is one of the most capable people she has worked with and she would hire her on her unit if Ms. Cummings did not already have a job.

7. Ms. Cummings has violated three Board Orders by her failure to comply with the HPMP.

CONCLUSIONS OF LAW

The Board concludes that Finding of Fact No. 4 constitutes a violation of Term No. 2 of the Board Order entered September 29, 2011.

ORDER

WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS as follows:

1. Mary K. Cummings, R.N., is hereby REPRIMANDED.
2. Ms. Cummings shall be CONTINUED on INDEFINITE SUSPENSION with SAID SUSPENSION STAYED upon payment of a \$5000.00 MONETARY PENALTY received by the Board office.
3. Upon receipt of the monetary penalty, the RN license shall be reinstated and Ms. Cummings shall be placed on PROBATION for one year of actual nursing employment subject to the following terms and conditions:
 - a. Ms. Cummings shall return all copies of her license to practice as a professional nurse to the Board office within ten days of the date of receipt of the monetary penalty, along with a reinstatement fee. Upon receipt, the Board shall issue a new license marked "Valid in Virginia Only; Probation with Terms".
 - b. Ms. Cummings 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. Cummings shall provide the name and address of each employer to the Board.
 - c. Ms. Cummings 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. If Ms. Cummings 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. Cummings, 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 that the monetary penalty is received. 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. Cummings 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 that the monetary penalty is received. 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.

f. This Order shall be applicable to Ms. Cummings' multistate licensure privileges, if any, to practice professional nursing. It is further ordered that for the duration of this Order, Ms. Cummings may 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.

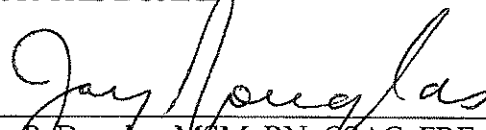
g. Ms. Cummings shall maintain a course of conduct in her capacity as a professional nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

h. The license of Mary K. Cummings, R.N., 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.

i. Any violation of the stated probation terms and conditions contained in this Order, or failure to complete the terms of probation within five years of the date she is placed on probation, shall be reason for suspending or revoking the license of Mary K. Cummings, R.N., and an administrative proceeding may be held to determine whether her license shall be suspended or 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 BOARD



Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director
Virginia Board of Nursing

June 10th, 2014
ENTERED

NOTICE OF RIGHT TO APPEAL

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 days from the date you are served with this Order in which to appeal this decision by filing a Notice of Appeal with Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. The service date shall be defined as the date you actually received this decision or the date it was mailed to you, whichever occurred first. In the event this decision is served upon you by mail, three days are added to that period.

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Virginia Board Of Nursing