

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE:                   GERALD B. ROY, R.N. REINSTATEMENT APPLICANT**

**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 July 20, 2009, in Henrico County, Virginia, to receive and act upon Gerald B. Roy's application for reinstatement of his license to practice professional nursing in Virginia, which was suspended by an Order of the Virginia Department of Health Professions entered on May 11, 2009, and to inquire into evidence that Mr. Roy may have violated certain laws and regulations governing nursing practice in Virginia. The case was presented by Amanda E. Mitchell, Adjudication Specialist, Administrative Proceedings Division. Howard M. Casway, Senior Assistant Attorney General, was present as legal counsel for the Board. Mr. Roy 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. Gerald B. Roy held License number 0001-171004 to practice professional nursing in the Commonwealth of Virginia, which was issued on July 31, 2000. Said license was mandatorily suspended pursuant to § 54.1-2409 of the Code by an Order of the Department of Health Professions entered on May 11, 2009, following his self-report to the Board of his felony convictions of one count of driving a vehicle after license revocation and driving while intoxicated, and one count of a third offense of operating a motor vehicle under the influence of alcohol within the last ten years. Mr. Roy was sentenced for these convictions in the Circuit Court of the City of Virginia Beach, Virginia, on January 28, 2008.

2. Mr. Roy submitted an application for reinstatement of his license, which was received by the Board on May 20, 2009.

3. Mr. Roy has a history of substance abuse as evidenced by:

a. Alcohol addiction and prior marijuana use, which he acknowledged to an investigator with the Virginia Department of Health Professions on April 17, 2009.

b. Three misdemeanor convictions for driving while intoxicated in the General District Court of the City of Virginia Beach, Virginia, received December 1997, October 17, 2002, and February 24, 2006.

4. On April 26, 2009, Mr. Roy entered into a Participation Contract with the Health Practitioners' Monitoring Program ("HPMP") [*formerly the Health Practitioners' Intervention Program*], pursuant to Chapter 25.1 of Title 54.1 of the Code and 18 VAC 76-10-10, et seq., of the Regulations Governing the HPMP.

5. Mr. Roy's HPMP case manager testified that Mr. Roy entered into a HPMP Recovery Monitoring Contract on July 16, 2009. Mr. Roy provided evidence of his current employment, a letter from his AA sponsor and documentation of continuing education courses taken between January and June 2009. He also testified that he renewed his BLS certification, and reported a sobriety date of July 28, 2007.

### **CONCLUSIONS OF LAW**

The Board concludes that:

1. Finding of Fact No. 1 constitutes a violation of § 54.1-3007(4) and (6) of the Code.
2. Findings of Fact Nos. 3(a) and 3(b) constitute violations of § 54.1-3007(6) of the Code.
3. Mr. Roy is properly enrolled in the Health Practitioners' Monitoring Program ("HPMP").

### **ORDER**

WHEREFORE, the Virginia Board of Nursing, by affirmative vote of at least three-fourths of the members of the Board at the hearing, effective upon entry of this Order, hereby ORDERS that License No.

0001-171004, issued to Gerald B. Roy to practice professional nursing in the Commonwealth of Virginia, be and hereby is REINSTATED subject to the following terms and conditions:

1. Mr. Roy shall continue to comply with all terms and conditions of the Recovery Monitoring Contract ("Contract") with the HPMP for the period specified in the Contract.

2. This order shall be applicable to Mr. Roy's multistate licensure privilege, if any, to practice professional nursing in the Commonwealth of Virginia. For the duration of this Order, Mr. Roy 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 he 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 terms and conditions stated in this Order shall be reason for revoking the license of Mr. Roy, and an administrative proceeding shall be held to decide whether his license should be revoked. Mr. Roy shall be noticed to appear before the Board at such time as the Board is notified that:

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

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

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

4. Mr. Roy 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 §§ 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, R.N., M.S.M., C.S.A.C.*  
So Jay P. Douglas, R.N., M.S.M., C.S.A.C.  
Executive Director  
Virginia Board of Nursing

July 28, 2009  
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, Richmond, 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.

**Certificate of Service**

I hereby certify that a true copy of the foregoing Order was mailed on this day to Gerald B. Roy, at 4420 Hudgins Drive, Virginia Beach, Virginia 23455.

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

July 28, 2009  
DATE