

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: KELLY GAYNE, R.N.
 License No.: 0001-158556**

ORDER

In accordance with §§ 2.2-4019, 2.2-4021, and 54.1-2400(10) of the Code of Virginia (1950), as amended ("Code"), an informal conference was conducted on behalf of the Board of Nursing ("Board") on April 11, 2013, in Henrico County, Virginia. Kelly Gayne, R.N., was not present nor was she represented by legal counsel. Janet Younger, Ph.D., R.N., P.N.P., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On May 22, 2013, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Gayne was not present nor was she represented by legal counsel.

Based upon its review of the Recommended Decision of the Agency Subordinate, the Board makes the following Findings of Fact and Conclusions of Law and issues the following Order.

FINDINGS OF FACT

1. Kelly Gayne, R.N., was issued License No. 0001-158556 to practice professional nursing in Virginia on April 30, 1998. The license is scheduled to expire on July 31, 2013. Her primary state of residence is Virginia. She previously held licenses to practice practical and professional nursing in the State of New York, both of which have expired. On February 17, 2012, the Board entered an Order reprimanding Ms. Gayne and requiring her to pay a monetary penalty of \$250. This action was based on findings that while employed with a home health agency, Ms. Gayne had signed patient assessments on patients that she did not visit. An Informal Conference was held on February 13, 2013, related to non-compliance with the February 17, 2012 Board Order and allegations of negligent practice at Interim Health Care, for which a recommendation is pending.

2. By letter dated March 20, 2013, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Gayne notifying her that an informal conference would be held on April 11, 2013. The Notice was sent by certified and first class mail to 107 Falls Circle, Tappahannock, Virginia 22560, the address of record on file with the Board of Nursing. The Notice sent by certified mail was returned to the Board office marked "Unclaimed." The Notice sent by first class mail was not returned to the Board office. The Agency Subordinate concluded that adequate notice was provided to Ms. Gayne, and the informal conference proceeded in her absence.

3. During the course of her employment with Westmoreland Rehabilitation and Healthcare, Colonial Beach, Virginia:

- a. On November 13, 2012, Ms. Gayne failed to administer and falsely documented administration of Levsin (hyoscyamine sulfate, Schedule VI) to Resident A. Resident A's medication was found in his drawer.
- b. On November 13, 2012, Ms. Gayne failed to administer and falsely documented administration of Prilosec (omeprazole, Schedule VI) to Resident B. Resident B's medication was found in her drawer.
- c. On January 20, 2013, Ms. Gayne failed to administer and falsely documented administration of Xanax (alprazolam, Schedule IV) to Resident C; however, she administered Ambien (zolpidem, Schedule IV) to the resident without a physician's order at approximately 6:00 a.m.
- d. On January 22, 2013, Ms. Gayne failed to administer and falsely documented administration of insulin to Resident D.
- e. On January 22 and 23, 2013, Ms. Gayne documented that Resident E's modafinil (Schedule IV) was missing from the medication cart; however, she failed to notify the resident's physician or her supervisor regarding his lack of medication.

4. Ms. Gayne was employed with Westmoreland Rehabilitation and Healthcare from September 28, 2012 until January 29, 2013. Her employment was terminated for performance and attendance issues. In an interview with an investigator for the Department of Health Professions on February 1, 2013, Ms. Gayne stated that she was not employed.

CONCLUSIONS OF LAW

1. Findings of Fact #3(a) – 3(d) constitute violations of § 54.1-3007(2), (5), and (8) of the Code and 18 VAC 90-20-300(A)(2)(e) and (f) of the Regulations Governing the Practice of Nursing (“Regulations”).

2. Finding of Fact #3(e) constitutes a violation of § 54.1-3007(2), (5), and (8) of the Code and 18 VAC 90-20-300(A)(2)(f) of the Regulations.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. License No. 0001-158556 of Kelly Gayne, R.N., is INDEFINITELY SUSPENDED.
2. The license will be recorded as suspended and no longer current.
3. At such time as Ms. Gayne shall petition the Board for reinstatement of her license, an administrative proceeding will be convened to determine whether she is capable of resuming the safe and competent practice of nursing. Ms. Gayne shall be responsible for any fees that may be required for the reinstatement and renewal of the license prior to issuance of the license to resume practice.

4. This suspension applies to any multistate privilege to practice professional nursing.

Pursuant to § 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 a public record, and shall be made available for public inspection and copying upon request.

Since Ms. Gayne failed to appear at the informal conference, this Order shall be considered final.

Ms. Gayne has the right to appeal this Order directly to the appropriate Virginia circuit court. As provided by Rule 2A:2 of the Supreme Court of Virginia, Ms. Gayne has thirty (30) days from the date of service (the date she actually received this decision or the date it was mailed to her, whichever occurred first) within 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, at Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233. In the event that this decision is served by mail, three (3) days are added to that period.

FOR THE BOARD:



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

Entered: _____

June 14th, 2013

Certified True Copy

By _____

Virginia Board of Nursing