

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: ANTHONY S. CARPENTER, L.P.N.

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 September 30, 2009, in Henrico County, Virginia. Anthony S. Carpenter, L.P.N., was present and was represented by legal counsel. Jane Elliott, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On November 18, 2009, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mr. Carpenter was not present nor was he 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. Anthony S. Carpenter, L.P.N., was issued License No. 0002-070083 to practice as a practical nurse in Virginia on October 18, 2004. The license was mandatorily suspended on March 6, 2006, and reinstated on May 26, 2006. The license is current, and set to expire on June 30, 2010.
2. By letter dated August 28, 2009, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Mr. Carpenter notifying him that an informal conference would be held on September 30, 2009. The Notice was sent by certified and first class mail to 2807 Garden City Blvd., #205, Roanoke, Virginia 24014, the address of record on file with the Board of Nursing.
3. During the course of his employment with Friendship Healthcare Center, Roanoke,

Virginia:

- a. On February 28, 2009, Mr. Carpenter diverted Endocet (oxycodone/APAP, Schedule II), hydrocodone/APAP (Schedule III), hydromorphone (Schedule II), and oxycodone HCL (Schedule II) for his own personal and unauthorized use. He accomplished this diversion by signing out the medications on the controlled substance sheets for various patients, which he did not administer.
 - b. During his 10:00 p.m. to 6:00 a.m. shift on February 27-28, 2009, Mr. Carpenter's witnessed behavior and appearance indicated impairment. More specifically, it was reported by the Nursing Supervisor, 2 C.N.A.'s, and a C.N.A. student that he was pale, his eyes were red, his left arm contained red, puncture-like marks, and he was yelling, stumbling and crying. Additionally, he was more nervous and fidgety than usual and continuously went back and forth between the medication room and the restroom during the entire shift, staying in the restroom for prolonged periods of time. The restroom trash can, which had been emptied prior to the arrival of the night shift, was found to contain vinyl gloves, alcohol prep pads and a rubber band. A review of video surveillance also showed Mr. Carpenter in the medication room exhibiting questionable behavior, including going through all of the drawers and both medication carts, pulling medications and placing them all in one cup. He also removed a syringe, several test strips, and liquid syrup. When asked to submit to a for-cause urine drug screen, he refused.
 - c. Mr. Carpenter resigned his employment on March 2, 2009. At the informal conference, Mr. Carpenter indicated that he initially refused to submit to the urine drug screen because he knew the results would be positive, and although he had a valid prescription for hydrocodone, the levels of the medication in his system would have exceeded the amount he was prescribed.
4. On March 30, 2009, during an intake interview with a social worker at VA Medical

Center, Mr. Carpenter admitted an addiction to hydrocodone, and reported a long history of depression.

5. At the informal conference, Mr. Carpenter admitted to diversion of hydrocodone while he was employed with Friendship Healthcare Center, but denied diverting any of the other medications. He also denied depriving patients of any of their scheduled medications. He stated that he became addicted to hydrocodone, which he would use both prior to and while on duty, after it was prescribed to him to treat his pain due to injuries he sustained to his knee, back and shoulder while he was in the Army serving in Iraq in 2003. He stated that he was honorably discharged from the Army in August, 2006. He also reported that he was diagnosed with post traumatic stress disorder. He acknowledged that he began using the hydrocodone to treat his psychological problem. He admitted that he has both substance abuse and mental health issues for which he is receiving treatment through the VA Medical Center in Salem, Virginia, and participation in the Health Practitioners' Monitoring Program ("HPMP").

6. Mr. Carpenter reported a sobriety date of March 1, 2009.

7. Mr. Carpenter signed a participation contract with the Health Practitioners' Monitoring Program ("HPMP") on April 1, 2009. He stated that he attends one NA/AA meeting per week, and participates in various support groups through the VA Medical Center, including a substance abuse peer group and a relapse prevention group. An HPMP Compliance Report dated September 28, 2009, indicated that Mr. Carpenter was attending required treatment sessions and/or meetings, has had all negative urine drug screens, and timely submitted treatment reports that indicate continuing progress. It was also reported that HPMP had determined that Mr. Carpenter was safe to return to practice.

8. Mr. Carpenter reported that his only current medication is Abilify.

CONCLUSIONS OF LAW

1. Finding of Fact No. 3(a) constitutes a violation of § 54.1-3007(2), (5), and (6) of the Code and 18 VAC 90-20-300(A)(2)(c), and (e) of the Regulations Governing the Practice of Nursing.
2. Findings of Fact Nos. 3 (b), 4, and 5 constitute violations of § 54.1-3007(6) of the Code.

ORDER

On the basis of the foregoing, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS that it shall TAKE NO ACTION at this time contingent expressly upon Mr. Carpenter's compliance with the following terms and conditions:

1. Mr. Carpenter shall comply with all terms and conditions of the Contract with the HPMP for the period specified in the Contract.
2. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Mr. Carpenter, and an administrative proceeding shall be held to decide whether his license shall be revoked. Mr. Carpenter shall be noticed to appear before a Committee at such time as the Board is notified that:
 - a. Mr. Carpenter is not in compliance with the terms and conditions of the HPMP, or has been terminated from participation in the HPMP, or
 - b. There is a pending investigation or unresolved allegations against Mr. Carpenter involving a violation of law, regulation or any term or condition of probation or this order, or
 - c. Mr. Carpenter has successfully completed the above-referenced period of participation in the HPMP. However, upon receipt of evidence of Mr. Carpenter's participation in and compliance with the HPMP, the Committee, at its discretion, may waive Mr. Carpenter's appearance before the Committee, and conduct an administrative review of this matter.
3. This Order is applicable to Mr. Carpenter's multistate licensure privileges, if any, to

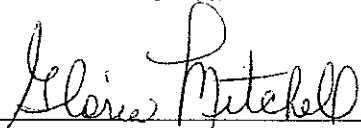
practice practical nursing in the Commonwealth of Virginia. For the duration of this Order, Mr. Carpenter shall not work outside of the Commonwealth of Virginia pursuant to a multistate licensure privilege without the written permission of the Virginia Board of Nursing and the Board of Nursing in the party state where he wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

4. Mr. Carpenter shall maintain a course of conduct in his capacity as a practical nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

This Order is subject to appeal to the Board. If Mr. Carpenter desires a formal administrative hearing before the Board pursuant to §§ 2.2-4020 and 2.2-4021 of the Code, he must notify Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233, in writing, within thirty-three (33) days from the date of service of this Order. Upon the filing of a request for the hearing with the Executive Director, this Order shall be vacated.

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.

FOR THE BOARD


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

Certified True Copy
By *agraham*
Virginia Board of Nursing

Entered: *December 1, 2009*