

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: Windy I. Markham, L.P.N.
License No.: 0002-052629**

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 July 9, 2013, in Henrico County, Virginia. Windy I. Markham, L.P.N., was present and was not represented by legal counsel. Janet B. Younger, R.N., P.N.P., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On September 18, 2013, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Markham 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. Windy I. Markham, L.P.N., was issued License No. 0002-052629 to practice practical nursing in Virginia on May 13, 1996. The license is scheduled to expire on November 30, 2014. Her primary state of residence is Virginia.
2. By letter dated June 13, 2013, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Markham notifying her that an informal conference would be held on July 9, 2013. The Notice was sent by certified and first class mail to Post Office Box 573, 106 Jackson Street, Gordonsville, Virginia 22942, the address of record on file with the Board of Nursing. The Notice was also sent to 8718 Jenny Lane, Fredericksburg, Virginia 22407, a secondary address.

3. During the course of her employment with Dogwood Village of Orange County, Virginia, by her own admission from July 2012 to February 2013, Ms. Markham diverted Dilaudid (hydromorphone, Schedule II) tablets from Resident A's PRN supply, falsely documented administration to Resident A, and kept the medications for her personal and unauthorized use.

4. Ms. Markham acknowledged that in 2011 she became addicted to heroin and practiced nursing while under the influence of heroin.

5. On February 13, 2013, Ms. Markham tested positive for opiates, marijuana, and heroin metabolites during a random urine drug screen at Dogwood Village. There were no concerns or suspicions of impairment on duty prior to that time.

6. In April 2013, Ms. Markham self-medicated with methadone, for which she did not have a valid prescription, to wean herself off of heroin.

7. Ms. Markham reported that she weaned herself off of methadone and reported a sobriety date of April 4, 2013. Ms. Markham stated that she has not received any substance abuse treatment or been involved in any recovery support meetings or programs.

8. Ms. Markham's employment with Dogwood Village was terminated on February 18, 2013. She reported prior nursing employments at Louisa Health and Rehabilitation Center and Covenant Woods, both of which were terminated. She is currently unemployed.

9. At the informal conference, Ms. Markham indicated a willingness to participate in the Virginia Health Practitioners' Monitoring Program.

CONCLUSIONS OF LAW

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(2), (5), and (8) of the Code and 18 VAC 90-20-300(A)(2)(c), (e), and (f) of the Regulations Governing the Practice of Nursing.

2. Findings of Fact Nos. 4, 5, and 6 constitute a violation of § 54.1-3007(6) of the Code.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. License No. 0002-052629 of Windy I. Markham, L.P.N., is INDEFINITELY SUSPENDED.
2. The license will be recorded as suspended and no longer current.
3. At such time as Ms. Markham 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 practical nursing. Ms. Markham 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 practical nursing.
5. This suspension shall be STAYED upon proof of entry into the Health Practitioners' Monitoring Program ("HPMP") 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. At such time, the indefinite suspension shall be STAYED and the following terms and conditions shall apply:
 - a. Ms. Markham shall comply with all terms and conditions for the period specified by the HPMP.
 - b. Any violation of the terms and conditions stated in this Order shall be reason for summarily rescinding the stay of indefinite suspension of the license of Windy I. Markham, L.P.N., and an administrative proceeding shall be held to determine whether her license shall be revoked. The stay of indefinite suspension may be summarily rescinded at such time the Board is notified that:
 - i. Ms. Markham is not in compliance with the terms and conditions specified by the HPMP;
 - ii. Ms. Markham's participation in the HPMP has been terminated;

iii. There is a pending investigation or unresolved allegation against Ms. Markham involving a violation of law, regulation, or any term or condition of this order.

6. Upon receipt of evidence of Ms. Markham's participation and successful completion of the HPMP, the Board, at its discretion, may waive Ms. Markham's appearance before a Committee and conduct an administrative review of this matter, at which time she may be issued an unrestricted license.

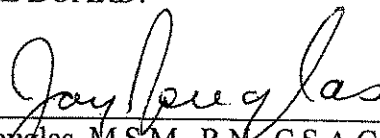
7. This Order is applicable to Ms. Markham's multistate licensure privileges, if any, to practice practical nursing. For the duration of this Order, Ms. Markham shall not work outside of the Commonwealth of Virginia pursuant to a multistate licensure privilege without the written permission of the Virginia Board of Nursing and the Board of Nursing in the party state where she wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

8. Ms. Markham shall maintain a course of conduct in her capacity as a practical nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Regulations Governing the Practice of 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.

Pursuant to Section 54.1-2400(10) of the Code, Ms. Markham may, not later than 5:00 p.m., on November 5, 2013, notify Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing that she desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

FOR THE BOARD:

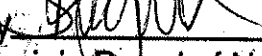


Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E.
Executive Director
Virginia Board of Nursing

ENTERED: October 3RD, 2013

This Order shall become final on November 5, 2013 unless a request for a formal administrative hearing is received as described above.

Certified True Copy

By 
Virginia Board of Nursing