

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: DION G. TOMER, R.N.
License No.: 0001-198370

ORDER

Pursuant to §§ 2.2-4019, 2.2-4021, and 54.1-2400(10) of the Code of Virginia (1950), as amended (“Code”), a Special Conference Committee (“Committee”) of the Virginia Board of Nursing (“Board”) met on February 11, 2014, in Henrico County, Virginia, to inquire into evidence that Dion G. Tomer, R.N., may have violated certain laws and regulations governing professional nursing practice in Virginia. Mr. Tomer was present and was represented by Margaret Hardy, Esquire.

Upon consideration of the evidence, the Committee adopts the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Dion G. Tomer, R.N., was issued License No. 0001-198370 to practice professional nursing in the Commonwealth of Virginia on September 23, 2005. Said license expires on June 30, 2015. Mr. Tomer’s primary state of residence is Virginia.
2. By letter dated January 16, 2014, the Board of Nursing sent a Notice of Informal Conference (“Notice”) to Mr. Tomer notifying him that an informal conference would be held on February 11, 2014. The Notice was sent by certified and first class mail to 601 Brunswick Road, P.O. Box 35, Blackstone, Virginia, 23824, the address of record on file with the Board of Nursing.
3. By his own admission, between December 2011 and April 2012, during the course of his employment as a flight nurse with PHI Medical Air and during the course of his employment with Centra Southside Community Hospital, Farmville, Virginia, Mr. Tomer diverted fentanyl (Schedule II) and hydromorphone (Schedule II) for his personal and unauthorized use.

4. Mr. Tomer signed a Participation Contract with the Health Practitioners' Monitoring Program ("HPMP") in May 2012 in which he admitted to a history of substance abuse. He was granted a stay of disciplinary action contingent upon his compliance with the terms and conditions of the HPMP.

5. In January 2013, Mr. Tomer responded to the scene of a motor vehicle accident in his capacity as deputy fire chief for the Blackstone, Virginia, Volunteer Fire Department. While on the scene, Mr. Tomer administered a narcotic medication to a child injured in the accident to facilitate the child's transport to the hospital in Richmond. At that time, Mr. Tomer was prohibited from administering narcotic medications pursuant to his contract with HPMP.

6. Mr. Tomer was dismissed from HPMP on March 12, 2013, for administering controlled substances and for practicing in a position outside of his contract.

7. Mr. Tomer re-entered HPMP on July 9, 2013, and has signed three Recovery Monitoring Contracts since that time. As of February 4, 2014, Mr. Tomer was in full compliance with his Recovery Monitoring Contract.

8. Mr. Tomer remains employed with Centra Southside Community Hospital, Farmville, Virginia, where he is in good standing. He provided multiple letters of reference from the chief nursing officer, the shift manager, and the unit manager of Centra. Mr. Tomer presented evidence of a positive performance evaluation dated February 3, 2014. He also reported that he is enrolled in a masters' degree program as a family nurse practitioner.

9. Mr. Tomer successfully completed an aftercare group on October 18, 2013. The substance abuse counselor recommended at least three 12-step meetings weekly, to work the steps with his sponsor, and to submit to random urine drug screens. This counselor also wrote that no further treatment was indicated.

10. Mr. Tomer reported his date of sobriety was May 17, 2012. He currently attends three 12-step meetings a week and two Caduceus meetings per month. He stated that he is working the steps with his sponsor, who is also a recovering health-care professional.

11. Mr. Tomer stated that he has been indicted on two counts of obtaining prescription drugs by fraud related to the diversion referenced in Finding of Fact No. 3. Mr. Tomer stated that he is hopeful that one or both of these charges will be withdrawn or that he will be placed on first-offender status.

CONCLUSIONS OF LAW

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

2. Findings of Fact Nos. 6 and 7 constitute a violation of § 54.1-3007(6) of the Code.

ORDER

On the basis of the foregoing, the Committee hereby ORDERS as follows:

1. Dion G. Tomer, R.N., shall be placed on PROBATION for a period of two years of actual nursing practice and subject to the following terms and conditions:

a. The period of probation shall begin on the date that this Order is entered and shall end at such time as Mr. Tomer has completed two years of active employment as a professional nurse. The license of Mr. Tomer 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.

b. Mr. Tomer shall inform the Board in writing within ten days of the date he begins nursing practice, or changes employment, or if any interruption in nursing practice occurs. Additionally, Mr. Tomer shall provide the name and address of each employer to the Board.

c. Mr. Tomer shall inform his current nursing employer and each future nursing employer that the Board has placed him on probation and shall provide each employer with a complete copy of this Order. If Mr. Tomer is employed through a staffing agency, he shall inform his supervisor in each facility where assigned that he is on probation.

d. Performance Evaluations shall be provided, at the direction of Mr. Tomer, 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 this Order is entered. 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. Mr. Tomer shall practice nursing only in a structured /supervised employment setting satisfactory to the Board for the first two years after being placed on probation. This employment setting shall provide on-site supervision by a physician or professional nurse who works the same shift and holds an unrestricted license. For all current nursing, and before beginning or changing nursing employment during this period, Mr. Tomer shall have current and all prospective employers provide a written description of the employment setting to the Board office for approval.

f. For the first year of employment as a professional nurse after being placed on probation, Mr. Tomer shall not administer any Schedule II - V controlled substances, the Schedule VI controlled substance Nubain, or any other controlled substances designated by the Board. For one year thereafter, Mr. Tomer may administer the above medications only under the supervision of a professional nurse.

g. Mr. Tomer shall not use alcohol or any other mood altering chemical, except as prescribed by a health care practitioner with whom he has a bona fide practitioner/patient relationship and for

accepted medicinal or therapeutic purposes. Should he be prescribed any Schedule II-V controlled medication, a written report from the prescribing practitioner shall be provided to the Board within ten days of the date the medication is prescribed.

h. Mr. Tomer shall be required to have two supervised, unannounced random drug screen(s) a month, from a Board approved testing entity, which include(s) testing for alcohol and the following drugs of choice: fentanyl and hydromorphone. Mr. Tomer shall ensure that the first set of results are received by the Board no later than 60 from the date this Order is entered. Subsequent results must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends. The Board shall be notified immediately in writing of any positive results or if Mr. Tomer refuses to give a specimen for analysis as required by this Order. All positive results must be confirmed by a confirmatory drug test, the results of which are to be sent to the Board immediately.

i. Mr. Tomer shall notify the Board of any disposition of any criminal proceedings within 30 days of said disposition by providing a certified copy of the Order of the Court in which the criminal proceeding was disposed of.

j. Mr. Tomer shall attend Alcoholics Anonymous /Narcotics Anonymous/Caduceus recovery support groups or other groups acceptable to the Board three times per week and shall have written evidence of attendance by a sponsor or contact person sent to the Board within seven days of each meeting.

k. If Mr. Tomer is placed under supervision by any court, he shall request his court appointed parole or probation officer to provide the Board with a written report describing how he is meeting the conditions of his parole or probation within 60 days from the date this Order is entered.

l. Mr. Tomer shall provide the Board with a certified true copy of his final court order placed on record by the Court upon completion of his parole /probation.

m. Mr. Tomer shall provide all current and future treating practitioners with a complete copy of this Order and shall execute an Authorization for Disclosure of Information form providing for unrestricted communication between the Board and any court-appointed probation or parole officers and any consultants designated by the Board.

n. Mr. Tomer 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 this Order is entered. 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.

o. Mr. Tomer shall return all copies of his license to practice as a professional nurse to the Board office within ten days of the date of entry of this Order along with a payment of a fee of \$15.00. Upon receipt, the Board shall issue a new license marked “Valid in Virginia Only; Probation with Terms.”

p. Mr. Tomer shall conduct himself as a professional nurse in compliance with the requirements of Title 54.1, Chapter 30 of the Code and the Board of Nursing Regulations.

q. Any violation of the stated terms and conditions contained in this Order, or failure to comply with all terms of this Order within five years of the date of entry of the Order, shall be reason for suspending or revoking the license of Dion G. Tomer, R.N., and an administrative proceeding may be held to determine whether his license shall be suspended or revoked.

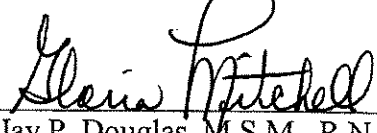
r. This Order is applicable to Mr Tomer’s multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. For the duration of this Order, Mr. Tomer shall not work outside of the Commonwealth of Virginia pursuant to a multistate licensure privilege without the 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.

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.

Pursuant to Section 54.1-2400(10) of the Code, Mr. Tomer may, not later than 5:00 p.m., on April 9, 2014, 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 he 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.

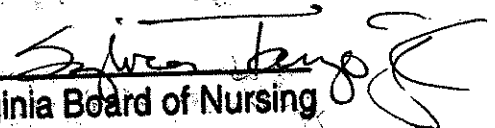
FOR THE COMMITTEE:


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

ENTERED: March 7, 2014

This Order shall become final on April 9, 2014, unless a request for a formal administrative hearing is received as described above.

Certified True Copy

By 
Virginia Board of Nursing