

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: ERROL PHILLIPS, R.N. REINSTATEMENT APPLICANT
License No.: 0001-202427

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 3, 2014, in Henrico County, Virginia, to receive and act upon Errol Phillips’ application for reinstatement of his license to practice professional nursing in Virginia and to inquire into evidence that Mr. Phillips may have violated certain laws and regulations governing professional nursing. Mr. Phillips was present and was not represented by counsel.

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

FINDINGS OF FACT

1. Errol Phillips was issued License No. 0001-202427 to practice professional nursing in the Commonwealth of Virginia on July 17, 2006. Said license was suspended by Consent Order entered by the Board on January 25, 2011, based on findings that he violated the terms of a prior Consent Order entered by the Board on July 20, 2010, in that he relapsed on alcohol and was dismissed from the Health Practitioners’ Monitoring Program (“HPMP”). The Consent Order entered by the Board on July 20, 2010, indefinitely suspended the professional nursing license of Mr. Phillips with the suspension stayed contingent upon Mr. Phillips’ continued compliance with the HPMP. This Order was based on findings that Mr. Phillips diverted Dilaudid (hydromorphone) and morphine (both Schedule II) from Mary Washington Hospital, Fredericksburg, Virginia, and that he was convicted of three counts of prescription fraud as a result. His primary state of residence is Virginia.

2. By letter dated January 10, 2014, the Board of Nursing sent a Notice of Informal Conference (“Notice”) to Mr. Phillips notifying him that an informal conference would be held on February 3, 2014. The Notice was sent by certified and first class mail to 3317 Prosperity Avenue, Fairfax, Virginia 22031, the address of record on file with the Board of Nursing.

3. Mr. Phillips submitted an application for reinstatement of his license to practice professional nursing, which was received by the Board on August 28, 2013.

4. On his application for reinstatement of his license as a registered nurse following suspension or revocation, received by the Board on August 28, 2013, Mr. Phillips answered “NO” to the question of whether he has a mental, physical, or chemical dependency condition that could interfere with his current ability to practice as a nurse, when, in fact, he has a chemical dependency condition as evidenced by Findings of Fact Nos. 5 and 6, below. At the informal conference, Mr. Phillips stated that he does have a chemical dependency problem, but that he answered “NO” because he did not believe it impacted his current ability to practice.

5. On October 10, 2013, Mr. Phillips stated to a Department of Health Professions investigator that in May 2010 he became depressed and replaced prescription drugs with alcohol to satisfy his addiction. Mr. Phillips further stated that in June 2010 his alcohol consumption increased dramatically and that his employment was terminated by his next two employers because of attendance issues stemming from his alcoholism.

6. Mr. Phillips was convicted in the United States District Court, Western District of Virginia, on June 9, 2006, of occupying a campsite within SNP while under the influence of alcohol.

7. Mr. Phillips was convicted in the Fredericksburg, Virginia, Circuit Court, on July 11, 2012, of three counts of prescription fraud, all felonies.

8. Mr. Phillips was convicted in the Fairfax County, Virginia, General District Court, on February 26, 2010, of petit larceny, a misdemeanor involving moral turpitude.

9. In an interview with a Department of Health Professions investigator on November 19, 2013, Mr. Phillips' probation officer gave Mr. Phillips a favorable recommendation and stated that he anticipates recommending that Mr. Phillips be released early from probation around December 2014. The probation officer further stated that Mr. Phillips has been paying his fines and court costs pursuant to a monthly payment plan.

10. At the informal conference, Mr. Phillips stated that his sobriety date for alcohol is December 24, 2011, and his sobriety date for IV Dilaudid is November 2009. Mr. Phillips stated that he has a strong network of support that includes his Alcoholics Anonymous sponsor and the people he lives with at Oxford House Prosperity, Fairfax, Virginia, which is a group home for recovering alcoholics. He is currently a server at a restaurant where he is around alcohol. Finally, Mr. Phillips submitted certificates of completion of 15 contact hours of continuing education.

CONCLUSIONS OF LAW

1. Finding of Fact No. 4 constitutes a violation of § 54.1-3007(1) of the Code and 90-20-300(A)(1)(b) of the Regulations Governing the Practice of Nursing ("Regulations").

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

3. Finding of Fact No. 7 constitutes a violation of § 54.1-3007(4) and (6) of the Code.

4. Finding of Fact No. 8 constitutes a violation of § 54.1-3007(4) of the Code.

5. Based on the above Findings of Fact, the Committee concludes that Mr. Phillips is a candidate for the HPMP.

6. The Committee concludes that Mr. Phillips has demonstrated satisfactory evidence that he is prepared to resume practice in a safe and competent manner with certain restrictions.

ORDER

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

1. The license of Errol Phillips shall be REINSTATED with a valid in Virginia only license, contingent upon proof of his re-entry into a contract with the HPMP, pursuant to § 54.1-2515 *et seq.* of the Code and 18 VAC 76-10-10 *et seq.* of the Regulations Governing the HPMP, within 30 days of the date this Order is entered. Thereafter, Mr. Phillips shall comply with all terms and conditions of the HPMP for the period specified by the HPMP.
2. This order shall be applicable to Mr. Phillips's multistate licensure privilege, if any, to practice professional nursing. For the duration of this Order, Mr. Phillips shall not work outside the Commonwealth of Virginia pursuant to a multistate licensure privilege, and the Board shall issue to Mr. Phillips a new license marked "Valid in Virginia Only."
3. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Mr. Phillips and an administrative proceeding shall be held to decide whether his license should be revoked. Mr. Phillips shall be noticed to appear before the Board at such time as the Board is notified that:
 - a. Mr. Phillips has failed to make application to the HPMP;
 - b. Mr. Phillips is not in compliance with the terms and conditions of the HPMP, or has been terminated from participation in the HPMP;
 - c. There is a pending investigation or unresolved allegation against Mr. Phillips involving a violation of law or regulation or any term or condition of this Order; or
 - d. Mr. Phillips has successfully completed the above-referenced period of participation in the HPMP. However, upon receipt of Mr. Phillips's participation in and compliance with the HPMP, the

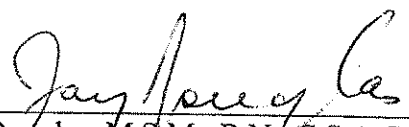
Board, at its discretion, may waive Mr. Phillips's appearance before the Board and conduct an administrative review of this matter.

4. Mr. Phillips 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.

Pursuant to Section 54.1-2400(10) of the Code, Mr. Phillips may, not later than 5:00 p.m., on **March 31, 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:



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

ENTERED: February 26th, 2014

This Order shall become final on **March 31, 2014**, unless a request for a formal administrative hearing is received as described above.

Certified True Copy
By 
Virginia Board of Nursing