

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: JOI KELLY, R.N.
License No.: 0001-223227

ORDER

Pursuant to §§ 2.2-4020, 54.1-110 and 54.1-2400(11) of the Code of Virginia (1950), as amended ("Code"), a formal administrative hearing was held before a panel of the Board of Nursing ("Board") on January 27, 2014, in Henrico County, Virginia, to inquire into evidence that Joi Kelly, R.N., may have violated certain laws and regulations governing professional nursing practice in Virginia. The case was presented by James E. Rutkowski, Adjudication Specialist, Administrative Proceedings Division. Charis A. Mitchell, Assistant Attorney General, was present as legal counsel for the Board. Ms. Kelly was present and was not represented by legal counsel. The proceedings were recorded by a certified court reporter.

Upon consideration of the evidence presented, the Board adopted the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Joi Kelly, R.N., was issued License No. 0001-223227 to practice as a professional nurse by the Virginia Board of Nursing on February 17, 2010. Said license is set to expire on July 31, 2015. Ms. Kelly also holds a practical nursing license in Virginia that is expired. Ms. Kelly's primary state of residence is Virginia.
2. During the course of her employment at Hunter Holmes McGuire VA Medical Center, Richmond, Virginia:
 - a. On March 27, 2012, Ms. Kelly refused to perform bowel care as ordered for Patient A. She stated the patient did not need bowel care even though the last documented bowel care was on March 24, 2012.
 - b. On January 11, 2012, Ms. Kelly failed to reassess Patient B, who was critically ill and

being transferred to another unit.

c. On September 22, 2011, Patient C was under Ms. Kelly's care when he went into respiratory distress. After a co-worker entered Patient C's room, Ms. Kelly left the room and told the night tour coordinator that her co-worker needed help as she left the facility.

3. On her employment application for The Orchard at Warsaw, Warsaw, Virginia, dated February 19, 2013, Ms. Kelly failed to list Hospice of Virginia, Richmond, Virginia, where her employment was terminated, and Laurels of University Park, Richmond, Virginia, where her employment was terminated, in her work history or resume.

4. On her employment application for Hunter Holmes McGuire VA Medical Center dated February 21, 2011, Ms. Kelly answered "No" to the question of whether she had had her employment discharged, when, in fact, she had been discharged from Hospice of Virginia and Laurels of University Park.

5. On her employment application for Hospice of Virginia dated April 27, 2010, Ms. Kelly failed to list in her employment history Laurels at University Park and Medi Home Health.

6. On her employment application for Laurels of University Park dated February 11, 2010, Ms. Kelly failed to list Medi Home Health as a previous employer.

7. The Laurels at University Park terminated Ms. Kelly's employment after she worked for one month. Hospice of Virginia terminated her employment after she worked for five months. The Orchard at Warsaw terminated Ms. Kelly's employment after she worked for 15 days. Medi Home Health assumed that she had voluntarily quit without notice because she had been absent from work for at least three days. Medi Home Health therefore listed her as discharged for neglect of duty after she worked for nine months. All the employers described her as rude to co-workers, patients, and patients' families. Finally, Hunter Holmes McGuire VA Medical Center terminated Ms. Kelly's employment during her probation period after she worked for five months as a result of the incidents in Finding of Fact No. 2 and four other incidents that were characterized by the nurse manager as "unsafe practices and unprofessional conduct."

CONCLUSION OF LAW

The Board concludes that:

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

ORDER

WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS that Joi Kelly, R.N., shall be placed on INDEFINITE PROBATION for not less than two years of actual nursing employment subject to the following terms and conditions:

1. The period of probation shall begin on the date that this Order is entered and shall end at such time as Ms. Kelly has completed two years of active employment as a licensed professional nurse. The license of Ms. Kelly shall be reinstated without restriction at the completion of the probationary period without a hearing unless there is a pending investigation or unresolved allegations 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, § 2.2-4300 et seq. and § 54.1-2400(9) of the Code.
2. Ms. Kelly shall inform the Board in writing within ten days of the date she begins nursing practice or changes employment, or if any interruption in nursing practice occurs. Additionally, Ms. Kelly shall provide the name and address of each employer to the Board.
3. Ms. Kelly shall inform her current nursing employer and each future nursing employer that the Board has placed her on probation and shall provide each employer with a complete copy of this Order. If Ms. Kelly is employed through a staffing agency, she shall inform her supervisor in each facility where assigned that she is on probation.

4. Performance evaluations shall be provided, at the direction of Ms. Kelly, by all nursing employers, as provided by the Compliance Division. The first report must be received in the Board's 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.
5. Ms. Kelly shall provide evidence that she has completed the following NCSBN online courses within 30 days of the entry of the Order: *Ethics of Nursing Practice; Professional Accountability and Legal Liability for Nurses; and Sharpening Critical Thinking Skills for Competent Nursing Practice.*
6. Ms. Kelly shall practice nursing in a structured/supervised employment setting satisfactory to the Board for one year after being placed on probation. This employment setting shall provide on-site supervision by a professional nurse, who works the same shift and works on the same level of the building and holds an unrestricted license. For all current nursing employment, and before beginning or changing nursing employment during this period, Ms. Kelly shall have current and all prospective provide a written description of the employment setting to the Board office for approval.
7. Ms. Kelly 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.
8. Ms. Kelly shall return all copies of her 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."
9. Ms. Kelly shall conduct herself as a professional nurse in compliance with the requirements of Title 54.1, Chapter 30 of the Code and the Board of Nursing Regulations.
10. Any violation of the stated terms and conditions contained in this Order, or failure to comply

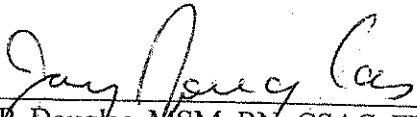
with all terms of this Order within five years of the date of entry of the Order, shall be reason for suspending or revoking the license of Ms. Kelly and an administrative proceeding shall be held to decide whether her license shall be suspended or revoked.

11. This Order is applicable to Ms. Kelly' multistate licensure privileges, if any, to practice professional nursing. For the duration of this Order, Ms. Kelly 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.

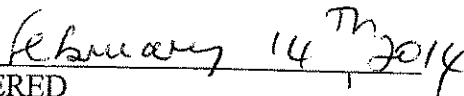
12. Ms. Kelly shall maintain a course of conduct in her capacity as a professional nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

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.


FOR THE BOARD



Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director
Virginia Board of Nursing



ENTERED

Certified True Copy
By 

Virginia Board of Nursing

NOTICE OF RIGHT TO APPEAL

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 days from the date you are served with this Order in 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, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. The service date shall be defined as the date you actually received this decision or the date it was mailed to you, whichever occurred first. In the event this decision is served upon you by mail, three days are added to that period.