

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

COLBY MANSELL, R. N.

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 March 23, 2011, in Henrico County, Virginia, to inquire into evidence that Colby Mansell, 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. Rachel Baer, Assistant Attorney General, was present as legal counsel for the Board. Mr. Mansell was present and was represented by Clive O'Leary, Esquire. 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. Colby Mansell, R.N., was issued License No. 0001-177972 to practice as a professional nurse in Virginia on December 4, 2001. The license is current and will expire on September 30, 2012. Mr. Mansell was issued licenses to practice professional nursing in Maryland, Ohio, California, and Nevada; all of the licenses from the other states have expired. His primary state of residence is Virginia.

2. On November 27, 2009, in the course of his employment with the Freestanding Emergency Department, Mary Washington Health Care ("MWHC"), Fredericksburg, Virginia, Mr. Mansell accessed the external jugular of Patient B, a procedure that is outside the scope of practice for a registered nurse according to MWHC hospital policy, for which no documentation of competency was provided. Patient B was a 68-year-old female patient in cardiac arrest. Despite the fact that a physician was present, Mr. Mansell failed to

defer to an authorized provider. Mr. Mansell failed to document accessing the external jugular in Patient B's chart.

3. On December 7, 2009, at MWHC, Mr. Mansell performed a femoral stick on Patient A, a procedure that is outside the scope of practice for a registered nurse according to MWHC hospital policy, for which no documentation of competency was provided. Patient A was a 23-day-old male infant in respiratory distress. Mr. Mansell failed to document the details of the femoral stick in Patient A's chart.

4. The MWHC nurse manager testified that the competencies in personnel records at that facility list only the permitted skills. Mr. Mansell told the Board that he viewed hospital policies and procedures as guidelines. In addition, Mr. Mansell told the Board that he would document his actions if time allows. Mr. Mansell showed no insight into the potential to cause harm to patients by practicing outside of his scope of practice.

5. Mr. Mansell's employment at MWHC was terminated on December 16, 2009, for performing procedures that were not in the MWHC registered nurse competencies, which is in violation of MWHC policy.

6. In the course of his employment as a professional nurse with INOVA Health System ("INOVA"), Alexandria, Virginia, on May 9, 2009, May 15, 2009, and May 18, 2009, several of Mr. Mansell's co-workers observed him to be asleep at the nurses' station while he was on duty. Mr. Mansell's employment with INOVA was terminated as a result of these incidents. Mr. Mansell told the Board that he has sleep apnea.

7. On his employment application to MWHC dated August 6, 2009, Mr. Mansell did not disclose that his employment was terminated by Continuum Pediatric Nursing, McLean, Virginia, in May 2008. Further, he stated that he left INOVA because he would fall asleep on the drive home, rather than disclosing that his employment was involuntarily terminated by INOVA Health System on May 28, 2009.

CONCLUSIONS OF LAW

The Board concludes that:

1. Findings of Fact Nos. 2 and 3 constitute violations of § 54.1-3007(2), (5), and (8) of the Code and 18 VAC 90-20-300(A)(2)(a) and (b) of the Regulations Governing the Practice of Nursing (“Regulations”).
2. Finding of Fact No. 6 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.
3. Finding of Fact No. 7 constitutes a violation of § 54.1-3007(2) 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 as follows:

1. Colby Mansell, R.N., is hereby placed on INDEFINITE PROBATION for not less than two years of actual nursing employment subject to the following terms and conditions:
 - a. The period of probation shall begin on the date that this Order is entered and shall continue indefinitely. After two years of active employment as a professional nurse, Mr. Mansell may request that the Board end this probation.
 - b. Mr. Mansell 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.
 - c. Mr. Mansell 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.
 - d. Performance Evaluations shall be provided, at the direction of Mr. Mansell, by all nursing employers, 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. Mansell shall provide evidence that he has completed the following NCSBN online course within 30 days of entry of this Order: *Professional Accountability & Legal Liability for Nurses*.

f. Mr. Mansell shall practice nursing only in a structured and supervised employment setting satisfactory to the Board for the term of 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, Mr. Mansell shall have current and all prospective employers provide a written description of the employment setting to the Board office for approval. Employment in home health care or with staffing agencies is not authorized during the period of probation.

g. Mr. Mansell 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.

h. Mr. Mansell 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 \$5.00. Upon receipt, the Board shall issue a new license marked "Valid in Virginia Only; Probation with Terms."


i. The Order is applicable to Mr. Mansell's multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. For the duration of the Order, Mr. Mansell 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.

2. Mr. Mansell shall conduct himself as a professional nurse in compliance with Virginia Code § 54.1-3000 *et seq.*, and the Board of Nursing Regulations.

3. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Mr. Mansell and an administrative proceeding shall be held to decide whether his license should be revoked. Mr. Mansell shall be noticed to appear before the Board if the Board is notified that there is a pending investigation or unresolved allegation against Mr. Mansell involving a violation of law or regulation or any term or condition of probation or this Order.

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, R.N., M.S.M., C.S.A.C.
Executive Director
Virginia Board of Nursing

April 1ST 2011

ENTERED

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.