

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: JESSICA SHULER, R.N.
License No.: 0001-240998**

ORDER

In accordance with Sections 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 December 11, 2013, in Henrico County, Virginia. Jessica Shuler, R.N., was not present, nor was she represented by legal counsel. Jane Elliott, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On January 29, 2014, the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Shuler 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. Jessica Shuler, R.N., was issued license number 0001-240998 to practice professional nursing in Virginia on October 5, 2012. The license is scheduled to expire on May 31, 2014. Her primary state of residence is Virginia.
2. By letter dated November 7, 2013, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Shuler notifying her that an informal conference would be held on December 11, 2013. The Notice was sent by certified and first class mail to P. O. Box 1234, Big Stone Gap, Virginia 24219, the address of record on file with the Board of Nursing. The certified mail receipt was signed on December 2, 2013. The first class mailing was not returned to the Board office. The Agency Subordinate concluded that adequate notice was provided to Ms. Shuler and the informal

conference proceeded in her absence.

3. From January 9, 2013, to February 12, 2013, during the course of her employment with Norton Community Hospital, Norton, Virginia, by her own admission, Ms. Shuler diverted oxycodone (Schedule II), Percocet (oxycodone and acetaminophen, Schedule II), and Lortab (hydrocodone, Schedule III) for her own personal and unauthorized use.

4. On February 12, 2013, Ms. Shuler submitted to a probable cause drug screen which was positive for oxycodone (Schedule II), for which she did not have a valid prescription.

5. On May 21, 2013, Ms. Shuler entered the Health Practitioners' Monitoring Program ("HPMP") due to her admitted history of substance abuse. On September 20, 2013, she was dismissed from the program due to noncompliance. Specifically, she stopped calling the drug screen test line on August 2, 2013, resulting in multiple missed tests. She also failed to comply with treatment recommendations, and failed to maintain contact with HPMP staff.

6. When interviewed by an investigator with the Virginia Department of Health Professions, in April, 2013, Ms. Shuler stated that she has had a problem with abusing oxycodone for three or four years. She also stated that she attended a 30-day treatment program in November, 2011. She denied using drugs after her release from this program until she started working as a nurse at Norton Community Hospital, which was her first nursing employment upon becoming licensed as a professional nurse.

7. On her RN license application, Ms. Shuler answered "no" to the question of whether she had a chemical dependency condition that would interfere with her current ability to practice nursing.

8. Ms. Shuler admitted to diverting an unknown number of oxycodone tablets, but denied

diverting Percocet or hydrocodone. On March 15, 2013, she was admitted to the Laurels Recovery Center for detox from oxycodone, after which she transferred to a halfway house, where she was still residing at the time of her interview with the investigator.

9. At the time she was interviewed by the investigator with the Virginia Department of Health Professions, Ms. Shuler stated that she was not employed.

10. The practitioner Ms. Shuler was currently seeing for individual counseling recommended that she have at least one year "clean time" before returning to full-time nursing practice.

CONCLUSIONS OF LAW

The Board concludes that:

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(2), (3), (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. 4 and 5 constitute violations of § 54.1-3007(6) of the Code.

ORDER

WHEREFORE, it is hereby ORDERED as follows:


1. License No. 0001-240998 of Jessica Shuler, R.N., is INDEFINITELY SUSPENDED for a period of not less than two years.
2. The license will be recorded as suspended and no longer current.
3. At such time as Ms. Shuler 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 nursing. Ms. Shuler 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 professional 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.

Since Ms. Shuler failed to appear at the informal conference, this Order shall be considered final. Ms. Shuler has the right to appeal this Order directly to the appropriate Virginia circuit court. As provided by Rule 2A:2 of the Supreme Court of Virginia, Ms. Shuler has thirty (30) days from the date of service (the date she actually received this decision or the date it was mailed to her, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E., Executive Director, Board of Nursing, at Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233. In the event that this decision is served by mail, three (3) days are added to that period.

FOR THE BOARD


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

Entered: Feb 7, 2014