

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: ELIZABETH B. BROWN, R.N. REINSTATEMENT APPLICANT
License No.: 0001-231028

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 30, 2014, in Henrico County, Virginia, to receive and act upon the application of Elizabeth B. Brown for reinstatement of her license to practice professional nursing in Virginia, which was mandatorily suspended by Order of the Department of Health Professions on September 25, 2013, and to inquire into evidence that Ms. Brown may have violated certain laws and regulations governing professional nursing practice in Virginia. The case was presented by Tammie D. Jones, Adjudication Specialist, Administrative Proceedings Division. Charis A. Mitchell, Assistant Attorney General, was present as legal counsel for the Board. Ms. Brown 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. Elizabeth B. Brown was issued License No. 0001-231028 to practice professional nursing in the Commonwealth of Virginia on June 17, 2011. Said license was mandatorily suspended pursuant to § 54.1-2409 of the Code by Order of the Department of Health Professions entered on September 25, 2013. Her primary state of residence is Virginia.
2. Ms. Brown submitted an application for reinstatement of her license to the Board on October 22, 2013.

3. On August 29, 2013, in the Circuit Court for Sullivan County, Tennessee, Ms. Brown was convicted of 35 felony counts of obtaining controlled substances by fraud. Said conviction led to the mandatory suspension of her license to practice professional nursing in Virginia.
4. During the course of her employment with Wellmont Health System - Bristol Regional Medical Center, Bristol, Tennessee, from July 13, 2012, to September 7, 2012, Ms. Brown diverted various narcotics including meperidine, fentanyl, hydromorphone and morphine (all Schedule II), for her personal and unauthorized use and injected the drugs while on duty. Ms. Brown accomplished the diversion by removing narcotics from the Emergency Room Pyxis dispensing system without specifying the patient and without physician orders. Ms. Brown resigned employment on September 10, 2012, in lieu of termination.
5. By Consent Order entered August 21, 2013, by the Tennessee Board of Nursing, Ms. Brown voluntarily surrendered her privilege to practice nursing with the same force and effect as a revocation.
6. From June 2011 to August 2012, Ms. Brown diverted and ingested Lortab from a family member's prescription. The family member is now aware and Ms. Brown no longer has access to those medications. By her own admission, Ms. Brown reported to work at Bristol Regional Medical Center in an impaired state.
7. In 2012, Ms. Brown abused Percocet (oxycodone/APAP, Schedule II) and Ambien (zolpidem, Schedule IV).
8. On April 26, 2013, Ms. Brown entered a Participation Contract with the Health Practitioners' Monitoring Program wherein she acknowledged her substance use disorder. A representative from the HPMP testified that Ms. Brown was in compliance with her contract.
9. Ms. Brown testified that her narcotics sobriety date is September 7, 2012, and her alcohol sobriety date is April 25, 2013.
10. The terms of her six-year, supervised court probation include that she cannot work in a facility that provides her access to narcotics.

11. Ms. Brown was forthright in her testimony at the hearing and admitted to all of the allegations against her.

12. Ms. Brown admitted that she has an addiction and that she continues to learn to cope with her addiction. She stated that she is attending Alcoholics Anonymous and Narcotics Anonymous and has a strong support system.

13. Ms Brown was articulate in her discussion of her recovery and took responsibility for her previous actions.

CONCLUSIONS OF LAW

The Board concludes that:

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(4) of the Code.
2. Finding of Fact No. 4 constitutes a violation of § 54.1-3007(2), (3), (5), (6) and (8) of the Code and 18 VAC 90-20-300(A)(2)(c) of the Regulations Governing the Practice of Nursing.
3. Finding of Fact No. 5 constitutes a violation of § 54.1-3007(7) of the Code.
4. Findings of Fact Nos. 6 - 8 constitute a violation of § 54.1-3007(6) of the Code.
5. Ms. Brown has demonstrated satisfactory evidence that she is prepared to resume practice in a safe and competent manner.

ORDER

WHEREFORE, the Virginia Board of Nursing hereby ORDERS as follows:

1. By affirmative vote of at least three-fourths of the members of the Board at the hearing, effective upon entry of this Order, License No. 0001-231028 issued to Elizabeth B. Brown to practice professional nursing in the Commonwealth of Virginia, is hereby REINSTATED. Ms. Brown shall be issued a license that is valid in Virginia only.
2. License No. 0001-231028 issued to Elizabeth B. Brown to practice professional nursing in the Commonwealth of Virginia is hereby INDEFINITELY SUSPENDED. Said suspension shall be STAYED

upon the condition that Ms. Brown remain compliant with the HPMP and the following terms and conditions:

a. Ms. Brown shall comply with all terms and conditions for the period specified by the HPMP.

b. Any violation of the terms and conditions stated in this Order shall be reason for summarily rescinding the stay of indefinite suspension of the license of Elizabeth B. Brown, and an administrative proceeding shall be held to decide whether her license shall be revoked. The stay of indefinite suspension may be summarily rescinded at such time the Board is notified that:

i. Ms. Brown is not in compliance with the terms and conditions specified by the HPMP, or has been terminated from participation in the HPMP, or

ii. There is a pending investigation or unresolved allegation involving a violation of law, regulation or any term or condition of this Order.

3. Upon receipt of evidence of Ms. Brown's participation in and successful completion of the terms specified by the HPMP, the Board, at its discretion, may waive Ms. Brown's appearance before the Board, and conduct an administrative review of this matter, at which time she may be issued an unrestricted license.

4. This Order shall be applicable to Ms. Brown's multistate licensure privileges, if any, to practice professional nursing. It is further ordered that for the duration of this Order, Ms. Brown may 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.

5. Ms. Brown 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 Regulations Governing the Practice of Nursing.

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

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

February 6, 2014
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.

Certified True Copy
By draham
Virginia Board of Nursing