

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE: KRISTY L. MILLER, C.N.A., R.M.A.**  
**Certificate No.: 1401-143564**  
**Registration No.: 0031-005425**

**ORDER**

In accordance with §§ 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 September 10, 2013, in Henrico County, Virginia. Kristy L. Miller, C.N.A., R.M.A., was not present nor was she represented by legal counsel. Nancy K. Durrett, R.N., M.S., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On November 19, 2013, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Miller 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. Kristy L. Miller, C.N.A., R.M.A., was issued Certificate No. 1401-143564 to practice as a nurse aide in Virginia on March 30, 2011. The certificate is scheduled to expire on March 31, 2014. Ms. Miller was issued Registration No. 0031-005425 to practice as a medication aide in Virginia on October 28, 2011. The registration is scheduled to expire on February 28, 2014.

2. By letter dated August 19, 2013, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Miller notifying her that an informal conference would be held on September 10, 2013. The Notice was sent by certified and first class mail to P. O. Box 1393, Cedar Bluff, Virginia 24609, the address of record on file with the Board of Nursing. The certified mail receipt was signed on August 21, 2013. The Notice sent by first class mail was not returned to the Board office. The Agency Subordinate concluded that adequate notice was provided to Ms. Miller and the informal conference proceeded in her absence.

3. During the course of her employment with Hummingbird Retirement Villa, Lebanon, Virginia, on

April 22, 2013, Ms. Miller tested positive for oxycodone (Schedule II), opiates and tricyclic antidepressants, for which she did not have valid prescriptions. Ms. Miller reported that she consumed Lortab (hydrocodone, Schedule III), Percocet (oxycodone) and Klonopin (clonazepam, Schedule IV) that were not prescribed to her and that she obtained from a friend.

4. Ms. Miller denied diverting drugs from Hummingbird Retirement Villa, but admitted to past drug problems. She was allowed to resign from employment. Ms. Miller was indicted in the Circuit Court of Russell County, Virginia, for obtaining drugs by fraud. On August 28, 2013, the court deferred disposition and Ms. Miller was placed on supervised probation for one year.

5. Ms. Miller had the following misdemeanor convictions in the General District Court of Russell County, Virginia:

- a. On July 25, 2005, Ms. Miller was convicted of drinking while operating a vehicle;
- b. On February 22, 2006, Ms. Miller was convicted of underage possession of alcohol;
- c. On January 23, 2008, Ms. Miller was convicted of public intoxication.

6. On the nurse aide application for certification by examination dated February 5, 2011, Ms. Miller answered "no" to the question pertaining to criminal convictions, when, in fact, she had the criminal convictions referenced above.

#### **CONCLUSIONS OF LAW**

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(2), (5) and (6) of the Code of Virginia (1950), as amended ("Code"), and 18 VAC 90-25-100(2)(c) of the Regulations Governing Certified Nurse Aides and 18 VAC 90-60-120(2)(c) of the Regulations Governing the Registration of Medication Aides.
2. Finding of Fact No. 5 constitutes a violation of § 54.1-3007(6) of the Code.
3. Finding of Fact No. 6 constitutes a violation of § 54.1-3007(1) and (3) of the Code, 18 VAC 90-25-100(1)(b) of the Regulations Governing Certified Nurse Aides and 18 VAC 90-60-120(1)(b) of the Regulations Governing the Registration of Medication Aides.

#### **ORDER**


WHEREFORE, it is hereby ORDERED as follows:

1. Certificate No. 1401-143564 and Registration No. 0031-005425 of Kristy L. Miller, C.N.A., R.M.A. is INDEFINITELY SUSPENDED.
2. The certificate and registration will be recorded as suspended and no longer current.
3. At such time as Ms. Miller shall petition the Board for reinstatement of her certificate and registration, an administrative proceeding will be convened to determine whether she is capable of resuming safe and competent practice as a nurse aide. Ms. Miller shall be responsible for any fees that may be required for the reinstatement and renewal of the certificate prior to issuance of the certificate to resume practice.
4. This suspension shall be STAYED upon proof of entry into Health Practitioners' Monitoring Program ("HPMP") pursuant to Chapter 25.1 of Title 54.1 of the Code and 18 VAC 76-10-10 *et seq.* of the Regulations Governing the HPMP. At such time, the indefinite suspension shall be STAYED and the following terms and conditions shall apply:
  - a. Ms. Miller 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 certificate of Ms. Miller, and an administrative proceeding shall be held to determine whether her certificate shall be revoked. The stay of indefinite suspension may be summarily rescinded at such time the Board is notified that:
    - i. Ms. Miller is not in compliance with the terms and conditions specified by the HPMP;
    - ii. Ms. Miller's participation in the HPMP has been terminated;
    - iii. There is a pending investigation or unresolved allegation against Ms. Miller involving a violation of law, regulation, or any term or condition of this order.
5. Upon receipt of evidence of Ms. Miller's participation and successful completion of the HPMP, the Board, at its discretion, may waive Ms. Miller's appearance before a Committee and conduct an administrative review of this matter, at which time she may be issued an unrestricted certificate.

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. Miller failed to appear at the informal conference, this Order shall be considered final. Ms. Miller 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. Miller 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

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

Entered: December 13<sup>th</sup>, 2013

Certified True Copy

By   
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Virginia Board Of Nursing