

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: DAVID KAUFMANN, R.N. REINSTATEMENT APPLICANT
License Nos.: 0001-160472; 0024-167119

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 November 19, 2013, in Henrico County, Virginia, to receive and act upon David Kaufmann's application for reinstatement of his license to practice professional nursing in Virginia, and to inquire into evidence that Mr. Kaufmann may have violated certain laws and regulations governing nursing practice in Virginia. The case was presented by James E. Rutkowski, Adjudication Specialist, Administrative Proceedings Division. Charis Mitchell, Assistant Attorney General, was present as legal counsel for the Board. Mr. Kaufmann 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. David Kaufmann, R.N., L.N.P., was issued License No. 0001-160472 to practice professional nursing by the Virginia Board of Nursing on July 28, 1998. He was issued License No. 0024-167119 to practice as a nurse practitioner in the category of certified registered nurse anesthetist by the Committee of the Joint Boards of Nursing and Medicine on September 14, 2006. Said licenses were mandatorily suspended by Order of the Director of the Department of Health Professions on December 19, 2006. Mr. Kaufmann also holds a current professional nursing license in Pennsylvania, and his professional nursing license in West Virginia is lapsed. His primary state of residence is Pennsylvania.

2. By Final Order entered December 11, 2012, the Pennsylvania Board of Nursing ("Pennsylvania Board") adopted a proposed order dated September 6, 2012, which reinstated Mr. Kaufmann's license to practice professional nursing and placed him on probation for one year, subject to certain terms and conditions, based on his history of addiction to opioids and alcohol and prior Pennsylvania Board Orders.

3. By Final Order entered March 4, 2010, the Pennsylvania Board denied Mr. Kaufmann's reinstatement of his professional nursing license and ordered that his professional nursing license remain suspended for no less than three years, retroactive to February 4, 2009, based on findings that he did not comply with the Pennsylvania Board's Final Order of September 12, 2006.

4. By Final Order dated September 12, 2006, the Pennsylvania Board suspended Mr. Kaufmann's license to practice professional nursing for no less than three years, retroactively to May 23, 2006, based on findings that Mr. Kaufmann failed to request a hearing after the Pennsylvania Board's Preliminary Order dated May 22, 2006. The Pennsylvania Board's Preliminary Order was based on findings that Mr. Kaufmann violated the terms and conditions of the Voluntary Recovery Program Consent Agreement and Order issued April 25, 2005, which suspended Mr. Kaufmann's license to practice professional nursing in Pennsylvania, and stayed the suspension for the length of time Mr. Kaufmann adheres to the terms of the agreement. Mr. Kaufmann violated the terms of the Voluntary Recovery Program Consent Agreement and Order by submitting fluid toxicology screens that were positive for alcohol, morphine (Schedule II), lorazepam (Schedule IV), and propoxyphene. The Pennsylvania Board's suspension of Mr. Kaufmann's license to practice professional nursing was the basis of the mandatory suspension of his license in Virginia.

5. By Voluntary Recovery Program Consent Agreement and Order issued on April 25, 2005, the Pennsylvania Board suspended Mr. Kaufmann's professional nursing license with said suspension stayed for

the length of time Mr. Kaufmann remained in an approved treatment and monitoring program and complied with certain terms and conditions based on findings that Mr. Kaufmann was unsafe to practice professional nursing due to illness, addiction to drugs or alcohol or mental incompetence.

6. On January 4, 2010, Mr. Kaufmann entered the Pennsylvania Nurse Peer Assistance Program (“PNAP”), which monitors nurses with addictive disease. On October 7, 2013, Mr. Kaufmann’s PNAP Case Manager faxed to a Department of Health Professions investigator a letter that stated Mr. Kaufmann is still in compliance with the program, which he is scheduled to complete on December 11, 2013. The Case Manager further stated Mr. Kaufmann has demonstrated eight years of continuous, sustained recovery.

7. Mr. Kaufmann testified that he currently attends three Alcoholics Anonymous or Narcotics Anonymous meetings a week, and he provides documentation of his attendance at these meetings to the PNAP. He further testified that he has a sponsor. Mr. Kaufmann continued to say that he would have to find another sponsor if he moved to Virginia and that he thinks he would continue to go to meetings after he moves. He admitted to the Board that he is an addict with a sobriety date of September 1, 2005.

8. Mr. Kaufmann’s current regimen of support is following PNAP, but this will cease in December 2013 when he completes the program.

9. Mr. Kaufmann is currently employed as a professional nurse in Pennsylvania, and he would like to pursue employment as a certified registered nurse anesthetist in Virginia Beach, Virginia. He stated that he has a certified registered nurse anesthetist job offer in Virginia Beach and that if he accepts the position, he will have a three year commitment.

CONCLUSIONS OF LAW

The Board concludes that Findings of Fact Nos. 2, 3, 4, and 5, constitute a violation of § 54.1-3007(6) and (7) of the Code of Virginia (1950), as amended (“Code”).

ORDER

WHEREFORE, the Virginia Board of Nursing, by affirmative vote of at least three-fourths of the members of the Board at the hearing, effective upon entry of this Order, hereby ORDERS as follows:

1. The license of David Kaufmann to practice professional nursing in the Commonwealth of Virginia is hereby REINSTATED contingent upon the Board's receipt of evidence that he has satisfactorily completed the probation ordered by the Pennsylvania Board's Final Order entered December 11, 2012.

2. Mr. Kaufmann shall maintain a course of conduct in his 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

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

December 11, 2013
ENTERED

Certified True Copy
By A. Graham
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., F.R.E., 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.

VIRGINIA:

BEFORE THE COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE

IN RE: DAVID KAUFMANN, L.N.P. REINSTATEMENT APPLICANT
License Nos.: 0001-160472; 0024-167119

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 Committee of the Joint Boards of Medicine and Nursing ("Committee") on November 19, 2013, in Henrico County, Virginia, to receive and act upon David Kaufmann's application for reinstatement of his license to practice as a nurse practitioner in Virginia and to inquire into evidence that Mr. Kaufmann may have violated certain laws and regulations governing nurse practitioner practice in Virginia. The case was presented by James E. Rutkowski, Adjudication Specialist, Administrative Proceedings Division. Charis Mitchell, Assistant Attorney General, was present as legal counsel for the Board. Mr. Kaufmann 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 Committee adopted the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. David Kaufmann, R.N., L.N.P., was issued License No. 0001-160472 to practice professional nursing by the Virginia Board of Nursing on July 28, 1998. He was issued License No. 0024-167119 to practice as a nurse practitioner in the category of certified registered nurse anesthetist by the Committee of the Joint Boards of Nursing and Medicine on September 14, 2006. Said licenses were mandatorily suspended by Order of the Director of the Department of Health Professions on December 19, 2006. Mr. Kaufmann also holds also a current professional nursing license in Pennsylvania, and his professional nursing license in West Virginia is lapsed. His primary state of residence is Pennsylvania.

2. By Final Order entered December 11, 2012, the Pennsylvania Board of Nursing ("Pennsylvania Board") adopted a proposed order dated September 6, 2012, which reinstated Mr. Kaufmann's license to practice professional nursing and placed him on probation for one year, subject to certain terms and conditions, based on his history of addiction to opioids and alcohol and prior Pennsylvania Board Orders.

3. By Final Order dated September 12, 2006, the Pennsylvania Board suspended Mr. Kaufmann's license to practice professional nursing for no less than three years, retroactively to May 23, 2006, based on findings that Mr. Kaufmann failed to request a hearing after the Pennsylvania Board's Preliminary Order dated May 22, 2006. The Pennsylvania Board's Preliminary Order was based on findings that Mr. Kaufmann violated the terms and conditions of the Voluntary Recovery Program Consent Agreement and Order issued April 25, 2005, by submitting fluid toxicology screens that were positive for alcohol, morphine (Schedule II), lorazepam (Schedule IV), and propoxyphene. The Pennsylvania Board's suspension of Mr. Kaufmann's license to practice professional nursing was the basis of the mandatory suspension of his nurse practitioner and professional nursing licenses in Virginia.

4. On January 4, 2010, Mr. Kaufmann entered the Pennsylvania Nurse Peer Assistance Program ("PNAP"), which monitors nurses with addictive disease. On October 7, 2013, Mr. Kaufmann's PNAP Case Manager faxed to a Department of Health Professions investigator a letter that stated Mr. Kaufmann is still in compliance with the program, which he is scheduled to complete on December 11, 2013. The Case Manager further stated Mr. Kaufmann has demonstrated eight years of continuous, sustained recovery.

5. Mr. Kaufmann testified that he currently attends three Alcoholics Anonymous or Narcotics Anonymous meetings a week, and he provides documentation of his attendance at these meetings to the PNAP. He stated that he has a sponsor. Mr. Kaufmann continued to say that he would have to find another sponsor if he moved to Virginia, and he thinks he would continue to go to meetings after he moves. Mr. Kaufmann admitted to the Board that he is an addict with a sobriety date of September 1, 2005.

6. Mr. Kaufmann's current regimen of support is following PNAP, but this will cease in December 2013 when he completes the program.

7. Mr. Kaufmann is currently employed as a professional nurse in Pennsylvania, and he would like to pursue employment as a certified registered nurse anesthetist in Virginia Beach, Virginia. He stated that he has a certified registered nurse anesthetist job offer in Virginia Beach and stated that if he accepts the position, he will have a three year commitment.

CONCLUSIONS OF LAW

The Board concludes that:

1. Finding of Fact No. 2 constitutes a violation of §§ 54.1-2915(A)(2), (5), and (14), and 54.1-3007(6) and (7) of the Code and 18 VAC 90-30-220(1), (4), (5) and (6) of the Regulations Governing the Licensure of Nurse Practitioners ("Regulations").

2. Finding of Fact No. 3 constitutes a violation of §§ 54.1-2915(A)(2), (5), and (14), and 54.1-3007(6) and (7) of the Code and 18 VAC 90-30-160 and 18 VAC 90-30-220(1), (4), (5) and (6) of the Regulations.

ORDER

WHEREFORE, the Virginia Committee of the Joint Boards of Nursing and Medicine, by affirmative vote of at least three-fourths of the members of the Board at the hearing, effective upon entry of this Order, hereby ORDERS that license issued to David Kaufmann to practice as a nurse practitioner in the Commonwealth of Virginia, be and hereby is REINSTATED contingent upon his providing proof to the Committee that he has been recertified as a certified registered nurse anesthetist.

Mr. Kaufmann is hereby placed on INDEFINITE PROBATION for not less than one year of actual employment as a licensed nurse practitioner 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 Mr. Kaufmann has completed one year of practice as a licensed nurse practitioner. The license of

Mr. Kaufmann shall be reinstated without restriction at the completion of the probationary period without a hearing unless there is a pending investigation or unresolved allegation 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 Committee makes a case decision in accordance with the Administrative Process Act, § 2.2-4000 et seq. and § 54.1-2400(9) et seq. of the Code.

2. Mr. Kaufmann shall inform his current employer and each future nurse practitioner employer that the Committee has placed him on probation and shall provide each employer with a complete copy of this Order. If Mr. Kaufmann is employed through a staffing agency, he shall inform his supervisor in each facility where assigned that he is on probation as a nurse practitioner/certified registered nurse anesthetist.

3. Mr. Kaufmann shall not use alcohol or any other mood altering chemical, except as prescribed by a health care practitioner with whom he has a bona fide practitioner/patient relationship and for accepted medicinal or therapeutic purposes. Should he be prescribed any Schedule II-V controlled medication, a written report from the prescribing practitioner shall be provided to the Committee within ten days of the date the medication is prescribed.

4. Mr. Kaufmann shall be required to have two supervised, unannounced random drug screens a quarter, from a Committee approved testing entity, which include testing for alcohol and the following drugs of choice: fentanyl, morphine, dilaudid, and opiates. Mr. Kaufmann shall ensure that the first set of results are received by the Committee no later than 60 days from the date this Order is entered. Subsequent results must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends. The Committee shall be notified immediately in writing of any positive results or if Mr. Kaufmann refuses to give a specimen for analysis as required by this Order. All positive results must be confirmed by a confirmatory drug test, the results of which are to be sent to the Committee immediately.

5. Mr. Kaufmann shall attend Alcoholics Anonymous /Narcotics Anonymous / Caduceus recovery support groups or other groups acceptable to the Committee two times per week and shall have written

evidence of attendance by a sponsor or contact person sent to the Board with his quarterly self-reports.

6. Mr. Kaufmann 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 Committee 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.

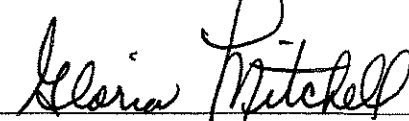
7. The Committee shall issue a license marked "Probation with Terms."

8. Mr. Kaufmann shall conduct himself as a licensed nurse practitioner in compliance with the requirements of Title 54.1, Chapters 29 and 30 of the Code, and the Regulations of the Committee of the Joint Boards.

9. 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 licenses of Mr. Kaufmann and an administrative proceeding may be held to determine whether his licenses shall be suspended or revoked.

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 COMMITTEE OF THE JOINT BOARDS

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

Certified True Copy
By *alabama*
Virginia Board of Nursing

December 11, 2013
ENTERED

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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., F.R.E., 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.