

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: TREY WHEELER, R.N.
 License No.: 0001-206169**

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 June 18, 2013, in Henrico County, Virginia. Trey Wheeler, R.N., was not present nor was he represented by legal counsel. Judith Piersall, R.N., B.S.N., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On September 18, 2013, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mr. Wheeler was not present nor was he 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. Trey Wheeler, R.N., was issued License No. 0001-206169 to practice professional nursing in Virginia on March 28, 2007. Said license expired on January 31, 2013. Mr. Wheeler's primary state of residence is Virginia.

2. By letter dated May 23, 2013, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Mr. Wheeler notifying him that an informal conference would be held on June 18, 2013. The Notice was sent by certified and first class mail to 1227 Chatham Road, Martinsville, Virginia, 24112, the address of record on file with the Board of Nursing. The Notice was also sent to 2755

Brandon Avenue, Apt. #82, Roanoke, Virginia, 24015, a secondary address. The Notices sent via certified mail to both the address of record and to the secondary address were not claimed and were returned to the Board office. The Notices sent via first-class mail were not returned to the Board office. The Agency Subordinate concluded that adequate notice was provided to Mr. Wheeler, and the informal conference proceeded in his absence.

3. During the course of his employment as a professional nurse at Salem Health and Rehabilitation Center, Salem, Virginia, between March and May 2012, by his own admission, Mr. Wheeler diverted controlled substances from facility stocks. Specifically, he diverted hydrocodone/APAP 10/500 (Schedule III), oxycodone 5 mg (Schedule II), and hydromorphone (Schedule II). Mr. Wheeler documented administering the medication to patients on their Medication Administration Records and then kept the medication for his personal and unauthorized use.

4. After facility staff discovered the diversion, Salem Health and Rehabilitation Center placed Mr. Wheeler on administrative leave, and although he was scheduled to return for a for-cause employment drug screen, he failed to do so. His employment was then terminated.

5. Mr. Wheeler admitted to an investigator for the Department of Health Professions to using the diverted medications while on duty, and he exhibited signs of impairment while on duty.

6. Mr. Wheeler admitted to an investigator for the Department of Health Professions in August 2012 that he began drinking alcohol regularly in February 2012 and that his drinking had increased since that time.

7. Mr. Wheeler stated to the investigator that he was interested in enrolling in the Health Practitioners' Monitoring Program, but he had not enrolled as of the date of the informal conference. He also stated that he was currently working in landscaping.

CONCLUSIONS OF LAW

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(2), (5), and (6) of the Code and 18 VAC 90-20-300(A)(2)(c) and (e) of the Regulations Governing the Practice of Nursing.
2. Findings of Fact Nos. 5 and 6 constitute a violation of § 54.1-3007(6) of the Code.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. The right of Trey Wheeler, R.N. to renew License No. 0001-206169 is INDEFINITELY SUSPENDED.
2. Said license will be recorded as suspended and no longer current.
3. At such time as Mr. Wheeler shall petition the Board for reinstatement of his license, an administrative proceeding will be convened to determine whether he is capable of resuming the safe and competent practice of professional nursing. Mr. Wheeler 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.
5. This suspension shall be STAYED upon proof of entry into the Health Practitioners' Monitoring Program ("HPMP"). At such time, the indefinite suspension shall be STAYED and the following terms and conditions shall apply:
 - a. Mr. Wheeler 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 Mr. Wheeler, and an administrative proceeding shall be held to determine whether his license shall be revoked. The stay of

indefinite suspension may be summarily rescinded at such time the Board is notified that:

- i. Mr. Wheeler is not in compliance with the terms and conditions specified by the HPMP;
- ii. Mr. Wheeler's participation in the HPMP has been terminated;
- iii. There is a pending investigation or unresolved allegation against Mr. Wheeler involving a violation of law, regulation, or any term or condition of this order.

6. Upon receipt of evidence of Mr. Wheeler's participation and successful completion of the HPMP, the Board, at its discretion, may waive Mr. Wheeler's appearance before a Committee and conduct an administrative review of this matter, at which time he may be issued an unrestricted license.

7. This Order is applicable to Mr. Wheeler's multistate licensure privileges, if any, to practice professional nursing. For the duration of this Order, Mr. Wheeler 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 Mr. Wheeler wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

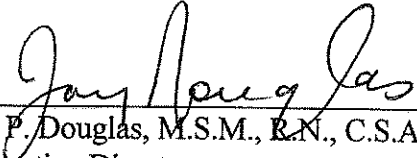
8. Mr. Wheeler shall maintain a course of conduct in his capacity as a professional nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

Pursuant to § 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 Mr. Wheeler failed to appear at the informal conference, this Order shall be considered final. Mr. Wheeler 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, Mr. Wheeler has thirty (30) days from the date of service (the date he actually received this decision or the date it was mailed to him, 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, Henrico, Virginia 23233. In the event that this decision is served by mail, three (3) days are added to that period.

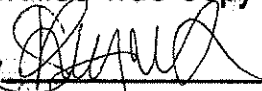
FOR THE BOARD:



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

Entered: October 2nd, 2013

Certified True Copy

By 

Virginia Board of Nursing