

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: RUSSELL CUMMINGS, R. N. REINSTATEMENT APPLICANT
License No.: 0001-208967

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 July 18, 2012, in Henrico County, Virginia, to receive and act upon Russell Cummings' application for reinstatement of his license to practice professional nursing in Virginia and to inquire into evidence that Mr. Cummings may have violated certain laws and regulations governing professional nursing practice in Virginia. The case was presented by James E. Rutkowski, Adjudication Specialist, Administrative Proceedings Division. Howard M. Casway, Senior Assistant Attorney General, was present as legal counsel for the Board. Mr. Cummings was present and was represented by Monica Monday, Esquire. 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. Russell Cummings, R.N., was issued License No. 0001-208967 to practice professional nursing in the Commonwealth of Virginia on August 24, 2007. Said license was mandatorily suspended pursuant to § 54.1-2409 of the Code by Order of the Department of Health Professions entered on August 29, 2011. By Consent Order entered on July 3, 2008, the Board ordered Mr. Cummings to pay a monetary penalty of \$100.00 based on the finding that Mr. Cummings practiced professional nursing from August 13, 2007, through August 21, 2007, without a license. Mr. Cummings' primary state of residence is Virginia.

2. Mr. Cummings submitted an application for reinstatement of his license to practice professional nursing, which was received by the Board on April 16, 2012.

3. On August 2, 2011, the North Carolina Board of Nursing revoked Mr. Cummings' privilege to practice professional nursing in North Carolina. The action was based on an audit of Mr. Cummings' documentation of controlled substances from March, 2011, through June 5, 2011, conducted by his employer, Pitt County Memorial Hospital, Greenville, North Carolina. The North Carolina Board of Nursing found that out of the 52 transactions audited, 20 discrepancies were identified in the Pitt County Hospital audit of patient records. The discrepancies included the following: Mr. Cummings signed out controlled substances without a physician's order on nine occasions. He signed out controlled substances without there being documentation on the Medication Administration Record to substantiate the administration of the drug to the patient on ten occasions where late charting is deemed to occur more than 30 minutes before and after administration of regular medications. Finally, on one occasion, Mr. Cummings signed out a controlled substance without there being accountability for the waste. In response to the audit on June 15, 2011, Mr. Cummings advised the risk analyst for Pitt County Memorial Hospital that he always charts late at the end of his shift. Mr. Cummings testified at the formal hearing that he was in agreement with the evidence presented regarding thirteen late or pre-charting discrepancies and three improper handling discrepancies, and with explanation, one wasting discrepancy and one lack of physician order discrepancy.

4. The risk analyst for Pitt County Memorial Hospital testified that after reviewing the audit, two of the physician orders were found. As a result, the audit contained two fewer discrepancies than were originally reported to the North Carolina Board of Nursing. A discrepancy rate of 25%, consistent with the hospital audit policy, satisfied the hospital standard for termination and reporting to the relevant licensing Boards.

5. Prior to the audit, Mr. Cummings had overall positive work evaluations with the exception of time management issues, but no disciplinary actions.

CONCLUSIONS OF LAW

The Board concludes that Finding of Fact No. 3 constitutes a violation of § 54.1-3007(5) and (7) of the Code.

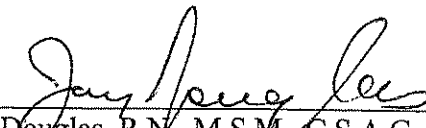
ORDER

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 that License No. 0001-208967 issued to Russell Cummings to practice professional nursing in the Commonwealth of Virginia, be and hereby is REINSTATED. It is further Ordered as follows:

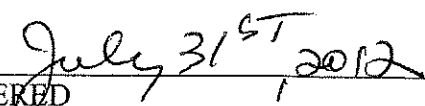
1. Mr. Cummings is hereby REPRIMANDED.
2. Mr. Cummings shall provide evidence that he has completed the following NCSBN online course within 30 days of entry of this Order: *Documentation: A Critical Aspect of Client Care*.
3. The Board shall issue a license marked "Valid in Virginia Only."
4. Mr. Cummings 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.
5. Any violation of the terms and conditions of this Order or of any law or regulation affecting the practice of nursing in the Commonwealth of Virginia shall constitute grounds for the suspension or revocation of the license of Mr. Cummings and an administrative proceeding shall be convened to determine whether such license 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 BOARD




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


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 

Virginia Board of Nursing