

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**RE:**

**EMMA B. TOWNES, L.P.N.**

**ORDER**

Pursuant to § 9-6.14:12, § 54.1-110 and § 54.1-2400(11) of the Code of Virginia (1950), as amended (the "Code"), a formal administrative hearing was held before a panel of the Board of Nursing (the "Board") on January 28, 1999, in Henrico County, Virginia, to receive and act upon evidence that Emma B. Townes, L.P.N., may have violated certain laws and regulations governing the practice of nursing in Virginia. The case was presented by Frank W. Pedrotty, Assistant Attorney General. Edward M. Casway, Assistant Attorney General, was present as legal counsel for the Board. Ms. Townes was present and was represented by Reginald M. Barley, 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. Emma B. Townes, L.P.N., holds License No. 0002-010500 to practice practical nursing in the Commonwealth of Virginia.
2. During the course of Ms. Townes' employment with Richmond Health Care Group ("Richmond Health"), Boulders Medical Center, Richmond, Virginia:
  - a. On or about April 4, 1996, April 15, 1996, and from March 29, 1996 through April 9, 1998, approximately twenty-seven (27) unauthorized prescriptions for Fastin (phentermine, a Schedule IV controlled substance) for a total of 840 caplets were ordered and dispensed in her name from at least three (3) different pharmacies to include: K-Mart Pharmacy, Sycamore Cardinal Drug, and IPS Pharmacy, all of Richmond, Virginia. These prescriptions were allegedly written and/or authorized by Gail Taylor, M.D., and David McLeod, M.D., who were physicians employed with

Richmond Health. Neither physician maintained medical records that indicated these prescriptions were legitimately prescribed for her.

- b. On or about May 1, 1998, Richmond Health was notified by a pharmacist from K-Mart Pharmacy, Richmond, Virginia, that a prescription for phentermine had been telephoned in for "Emma Townes," with erroneous demographic information. This prescription was not dispensed as no physician at Richmond Health authorized it.
  - c. On or about May 6, 1998, during a meeting with Richmond Health staff, Ms. Townes stated that "[she] may have called in one [prescription] for herself when she worked in Chester, but that she did not do a lot of them," and "maybe [she] did call in a refill prescription for phentermine without authorization." As a result, her employment was terminated.
3. Ms. Townes offered no plausible explanation for twenty-five (25) of the total thirty-one (31) prescriptions dispensed in her name from three (3) pharmacies, two (2) of which were utilized by her during the time in question. Ms. Townes further admitted that she received nine (9) of the thirty-one (31) prescriptions for phentermine as listed in the allegations.
  4. Ms. Townes' medical records and the testimony of Dr. Taylor accurately reflect the prescribing of phentermine by Dr. Taylor beginning on February 8, 1996 and including March 6, 1996, April 4, 1996, April 15, 1996, April 30, 1996, and May 29, 1996, to wit, six (6) occasions without a refill.
  5. On at least three (3) occasions, July 29, 1996, September 25, 1997, and January 1, 1997, Ms. Townes picked up prescriptions for phentermine and other prescribed medications from the IPS Pharmacy located at her place of employment. Said prescriptions on these occasions were dispensed in sequence.
  6. Dr. McCloud testified that Ms. Townes was the only nurse he authorized to fill in pre-signed prescriptions
  7. Dr. Taylor testified that while Ms. Townes was authorized to act as her agent to call in authorized

prescriptions, she was not authorized to call in her own prescriptions.

**CONCLUSIONS OF LAW**

Based upon the Findings of Fact, the Board concludes that Emma B. Townes, L.P.N., has violated § 54.1-3007(2), (5), (6) and (8) of the Code, and 18 VAC 90-20-300(A)(2)(c) of the Board of Nursing Regulations.

**ORDER**

WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS that License No. 0002-010500, issued to Emma B. Townes, L.P.N., to practice practical nursing in the Commonwealth of Virginia, be and hereby is SUSPENDED for six (6) months. Further, the Board ORDERS that at the conclusion of the six (6) months of suspension, Ms. Townes' license to practice practical nursing shall be reinstated, and she shall be placed on probation subject to the following terms and conditions:

1. The period of probation shall begin upon the expiration of the six (6) months of suspension and shall end upon completion of three (3) years of employment as a licensed practical nurse. The license of Ms. Townes shall be reinstated without condition 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 Board makes a case decision in accordance with the Administrative Process Act, § 9-6.14:1 et seq., of the Code.
2. Written reports are required by this Order and shall be sent to the Board office with the first report being received no later than sixty (60) days following the date that Ms. Townes is reinstated and placed on probation. 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, to include:
  - a) Performance Evaluations shall be provided, as detailed below.
  - b) Prescriptions from prescribing health care provider(s) shall be provided, as detailed below.

c) "Self-Reports" shall be provided, as detailed below.

3. Ms. Townes shall inform the Board in writing within ten (10) days of the date she begins nursing practice, or changes employment, or any interruption in nursing practice occurs, and Ms. Townes shall provide the name and address of the employer.
4. Ms. Townes shall inform her current nursing employer and each future nursing employer that the Board has placed her on probation and shall provide each employer with a complete copy of this Order. If Ms. Townes is employed through a staffing agency, she shall inform her supervisor in each facility where assigned that she is on probation.
5. Performance Evaluations shall be provided, at the direction of Ms. Townes, by all nursing employer(s).
6. Ms. Townes shall practice nursing only in a structured supervised employment setting satisfactory to the Board for the first eighteen (18) months. This employment setting shall provide on-site supervision by a physician or professional nurse, and holds an unrestricted license. For all current nursing employment, and before beginning or changing nursing employment during this period, Ms. Townes shall have current and all prospective employers provide a written description of the employment setting to the Board office for approval.
7. Ms. Townes shall provide all current and future treating practitioners with a complete copy of this Order, and shall execute an Authorization for Disclosure of Information form providing for unrestricted communication between the Board, and any consultants designated by the Board.
8. Ms. Townes shall submit quarterly "Self-Reports" which include a current address, telephone number, and all current employment. This report shall also include any changes in employment status, as required in Term No. 2.
9. Ms. Townes shall return all copies of her license to practice as a licensed practical nurse to the Board office within ten (10) days of the date of entry of this Order.

10. Upon completion of the six (6) months of suspension, the Board shall issue Ms. Townes a license marked "PROBATION WITH TERMS" upon receipt of the appropriate fee.
11. Ms. Townes, as a licensed practical nurse shall conduct herself in compliance with the requirements of Title 54.1, Chapter 30 of the Code of Virginia (1950), as amended, and the Board of Nursing Regulations.
12. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Ms. Townes, and a hearing shall be held to decide whether her license shall be revoked.

Pursuant to § 9-6.14:14 of the Code, as amended, 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.

As provided by Rule 2A:2 of the Supreme Court of Virginia, Ms. Townes has thirty (30) days from the service date in which to appeal this decision by filing a Notice of Appeal with Nancy K. Durrett, R.N., M.S.N., Executive Director, Board of Nursing, 6606 West Broad Street, Fourth Floor, Richmond, Virginia 23230-1717. The service date shall be defined as the date Ms. Townes actually received this decision or the date it was mailed to her, whichever occurred first. In the event this decision is served upon her by mail, three (3) days are added to that period.

FOR THE BOARD

Nancy K. Durrett  
Nancy K. Durrett, R.N., M.S.N.  
Executive Director for the  
Board of Nursing

February 11, 1999  
ENTERED

Certificate of Service

I hereby certify that a certified true copy of the foregoing Order was mailed on this day to Emma B. Townes, L.P.N., at 1128 Old Hundred Road, Midlothian, Virginia 23113, and to Reginald M. Barley, Esquire, The 21 Center, 2025 East Main Street, Suite 210, Richmond, Virginia 23223.

Nancy K. Durrutt  
Nancy K. Durrutt, R.N., M.S.N.  
Executive Director for the  
Board of Nursing

February 11, 1999  
DATE

**IACATE**