

0001-101703
0024-101703
0017-000956

VIRGINIA:

**BEFORE THE COMMITTEE OF THE
JOINT BOARDS OF NURSING AND MEDICINE**

**IN RE: JEAN BLACK, L.N.P.
License Nos. 0024-101703; 0017-000956**

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 quorum of the Committee of the Joint Boards of Nursing and Medicine ("Committee") on December 12, 2012, in Henrico County, Virginia, to inquire into evidence that Jean Black, L.N.P., 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. Erin Barrett, Assistant Attorney General, was present as legal counsel for the Board. Ms. Black 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. Jean Black, L.N.P., was issued License No.0024-101703 to practice as a licensed nurse practitioner, in the categories of neonatal and family care, by the Committee of the Joint Boards on January 3, 1992. Ms. Black was issued License No.0017-000956 for prescriptive authority on July 23, 1996. Ms. Black was also issued License No. 0001-101703 to practice professional nursing in Virginia by the Virginia Board of Nursing on August 15, 1986. All licenses are current and are set to expire August 31, 2014.
2. During the course of Ms. Black's practice at and ownership of Mountain Springs Family Practice, Copper Hill, Virginia, from February, 2008, to December, 2011, she regularly prescribed Schedule

II through Schedule VI drugs, including numerous narcotics, to patients while practicing independently of a supervising physician. The primary supervising physician and secondary supervising physician listed on her Prescriptive Authority Practice Agreements practiced at a location separate from where she practiced, never visited her practice location, and never reviewed a random sample of her patient records.

3. From February 2008 until November 1, 2012, Ms. Black practiced in a separate office from her supervising physicians. Ms. Black testified that her clinic has been closed since November 1, 2012, and that she currently has no supervising physician.

4. Ms. Black testified that her practice is in a remote, rural area, and there may not be any physicians who can regularly visit the location. She was operating under the assumption that nurse practitioners practicing in certain high need areas did not have to be supervised by a physician. Ms. Black believed this practice was in compliance with the statutes and regulations in place governing nurse practitioners at the time. Ms. Black further testified that her patients are needy, and approximately 1% of her patients received Schedule II drugs. Ms. Black admitted that she dismissed patients, and did not document the reason for the dismissal. Moreover, sometimes Ms. Black allowed patients to return to her practice after dismissal. Ms. Black submitted a letter of support dated September 7, 2012, from her current part-time employer at Good Samaritan Hospice, Roanoke, Virginia. She also submitted a letter of support, dated November 26, 2012, from a physician whom she consulted while she ran the Mountain Spring Family Practice.

5. Ms. Black testified that her supervising physician for the years 2008-2011 did not visit her clinic until December 2011. That visit was prompted by the ongoing investigation by the Department of Health Professions.

6. Ms. Black's supervising physician did not select patient cases to review from Ms. Black's files himself until December 2011. Prior to that point, Ms. Black selected and provided patient files for her supervising physician to review during quarterly meetings. This review did not constitute a regular, random review of Ms. Black's patient files.

7. Ms. Black failed to ensure she was properly supervised under the applicable statutes and regulations.
8. Ms. Black could not clearly articulate a plan of care for patients with chronic pain. Furthermore, Ms. Black was unfamiliar with current recommendations for the management of chronic pain patients.
9. Ms. Black admitted that she failed to document patient care appropriately.

CONCLUSIONS OF LAW

The Committee concludes that Findings of Fact Nos. 2-9 constitute a violation of §§ 54.1-2957.01(E)(2) of the Code (effective until July 1, 2012) and 54.1-3007(2), (3), and (5) of the Code, 18 VAC 90-30-220(3) and (4) of the Regulations Governing the Licensure of Nurse Practitioners, and 18 VAC 90-40-100(B)(1) and (2) of the Regulations for Prescriptive Authority for Nurse Practitioners.

ORDER

WHEREFORE, the Committee of the Joint Boards of Nursing and Medicine, effective upon entry of this Order, hereby ORDERS as follows:

1. Jean Black, L.N.P., is hereby REPRIMANDED.
2. Ms. Black is hereby placed on INDEFINITE PROBATION for not less than one year of actual nurse practitioner employment subject to the following terms and conditions:
 - a. The period of probation shall begin on the date that this Order is entered and shall end at such time as Ms. Black has completed one year of practice as a licensed nurse practitioner. The license of Ms. Black 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.

- b. Ms. Black shall inform the Committee in writing within ten (10) days of the date she begins nurse practitioner practice, or changes employment, or if any interruption in nurse practitioner practice occurs. Additionally, Ms. Black shall provide the name and address of each employer to the Committee.
- c. Ms. Black shall inform her current employer or supervising/collaborative physician and each future nursing employer or supervising/collaborative physician that the Committee has placed her on probation and shall provide each employer or supervising/collaborative physician with a complete copy of this Order. If Ms. Black is employed through a staffing agency, she shall inform her supervising physician in each facility where assigned that she is on probation.
- d. Performance Evaluations shall be provided at the direction of Ms. Black by all nursing employers or the supervising/collaborating physician, as provided by the Compliance Division. Performance evaluations shall specifically address prescribing pattern of Schedule II drugs, frequency of random chart reviews, and patient management outcomes. The first report must be received in the Committee office no later than sixty (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.
- e. Ms. Black shall enroll in and successfully complete the following Committee-approved continuing competency courses within 60 days of entry of this Order: a documentation course consisting of ten continuing education units ("C.E.U.") in the advanced practice of nursing or physician level; and the Board of Pharmacy modules for chronic pain management consisting of 6.5 C.E.U. Ms. Black shall not practice until she has provided written evidence to the Committee of satisfactory completion of said courses and has received permission from the Committee to do so.
- f. Ms. Black shall submit for review by designated Committee staff a copy of a current practice agreement as specified in § 54.1-2957.01 of the Code.
- g. Ms. Black shall practice only in a supervised practice setting satisfactory to the Committee for the one year after being placed on probation. This practice setting shall provide on-site

supervision by a physician who practices at the same site, and holds an unrestricted license. For all current nurse practitioner practice, and before beginning or changing her nurse practitioner practice or employment during this period, Ms. Black shall have current and all prospective supervising physicians provide a written description of the practice setting to the Committee office for approval.

h. Ms. Black 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 Board 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.

i. Ms. Black shall return all copies of her license to practice as a licensed nurse practitioner and prescriptive authority to the Committee office within 10 days of the date of entry of this Order along with a payment of a fee of \$15.00. Upon receipt, the Committee shall issue a new license marked "Valid in Virginia Only; Probation with Terms."

j. Ms. Black shall conduct herself as a professional nurse and licensed nurse practitioner in compliance with the requirements of Title 54.1, Chapter 30 of the Code, and the Regulations for the Committee of the Joint Boards.

k. 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 license of Ms. Black and an administrative proceeding may be held to determine whether her 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

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

December 28, 2012
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 *draham*
Virginia Board of Nursing