

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

JOHN LEWIS, R.N.

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 November 8, 2010, in Henrico County, Virginia. Mr. Lewis was present and was not represented by legal counsel. Jane Elliott, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On January 26, 2011, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mr. Lewis 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. John Lewis, R.N., was issued License No. 0001-180295 to practice professional nursing in Virginia on July 12, 2002. The license is scheduled to expire on March 31, 2012. His primary state of residence is Virginia.

2. By letter dated October 15, 2010, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Mr. Lewis notifying him that an informal conference would be held on November 8, 2010. The Notice was sent by certified and first class mail to 7109 Staples Mill Road, #197, Richmond, Virginia 23228, the address of record on file with the Board of Nursing.

3. On July 24, 2008, Mr. Lewis signed a Participation Contract with the Health

Practitioners' Monitoring Program ("HPMP," formerly known as the Health Practitioners' Intervention Program) in which he admitted that he may suffer from the disease of chemical abuse and/or dependence as evidenced by his history of alcoholism and relapse into drinking. On October 29, 2008, and March 5, 2009, Mr. Lewis signed Recovery Monitoring Contracts with the HPMP in which he admitted that he may have an alcohol problem that may impair his ability to practice his health profession safely.

4. On May 3, 2010, Mr. Lewis agreed with his HPMP case manager to refrain from the practice of professional nursing for 48 hours after ingesting a dose of Vicodin (hydrocodone bitartrate and acetaminophen, Schedule III) that was prescribed by his dentist. On May 4, 2010, Mr. Lewis submitted to a urine screen that was positive for hydrocodone. On that same day he reported to work at Commonwealth Care Roanoke, Virginia. As a result, Mr. Lewis was dismissed from the HPMP. Mr. Lewis stated at the informal conference that his duties at Commonwealth Care Roanoke on May 4, 2010, only included attending a non-clinical orientation.

5. On his employment application to River View on the Appomattox Health & Rehab Center, Hopewell, Virginia, dated April 28, 2010, Mr. Lewis failed to disclose that his employment was terminated by Glenburnie Rehabilitation and Nursing Center, Richmond, Virginia, on April 19, 2010, for not completing admissions in a timely manner.

6. At the informal conference, Mr. Lewis reported a sobriety date of June 25, 2008. Mr. Lewis further stated that he attends Alcoholics Anonymous three times a week and has a sponsor that he meets with regularly. He also sees a counselor once a month. Mr. Lewis' counselor stated to an investigator for the Department of Health Professions that she feels Mr. Lewis is doing well and is capable of returning to full-time work in a health care setting. In addition, Mr. Lewis submitted a letter from his counselor dated November 6, 2010, that stated she has been seeing Mr. Lewis for two years,

and all of his drug screens and breathalyzers have been negative. She further wrote that he has been attending her aftercare group and has agreed to aftercare as long as needed. Currently, Mr. Lewis works at Nursefinders, and he is assigned to a rehabilitation hospital.

CONCLUSIONS OF LAW

1. Findings of Fact Nos. 3 and 4 constitute a violation of § 54.1-3007(6) of the Code.
2. Finding of Fact No. 5 constitutes a violation of §54.1-3007(2) of the Code and 18 VAC 90-20-300(A)(2)(e) of the Regulations Governing the Practice of Nursing.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. John Lewis, R.N., is hereby REPRIMANDED.
2. Mr. Lewis shall be placed on PROBATION for two years of actual nursing practice 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 Mr. Lewis has completed two years of active employment as a professional nurse. The license of Mr. Lewis 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 Board 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. Mr. Lewis shall inform the Board in writing within ten days of the date he begins nursing, or changes employment, or if any interruption in nursing. Additionally, Mr. Lewis shall provide the name and address of each employer to the Board.
 - c. Mr. Lewis shall inform his current nursing employer and each future nursing

employer that the Board has placed him on probation and shall provide each employer with a complete copy of this Order. If Mr. Lewis is employed through a staffing agency, he shall inform his supervisor in each facility where assigned that he is on probation.

d. Performance Evaluations shall be provided, at the direction of Mr. Lewis, by all nursing employers, as provided by the Compliance Division. 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.

e. Mr. Lewis shall practice nursing only in a structured /supervised employment setting satisfactory to the Board for the first two years after being placed on probation. This employment setting shall provide on-site supervision by a physician or professional nurse, who works the same shift and holds an unrestricted license. For all current nursing employment, and before beginning or changing nursing employment during this period, Mr. Lewis shall have current and all prospective employers provide a written description of the employment setting to the Board office for approval.

f. Mr. Lewis 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 Board within ten days of the date the medication is prescribed.

g. Mr. Lewis shall be required to have one supervised, unannounced random drug screen a quarter, from a Board approved testing entity, which includes testing for alcohol. Mr. Lewis shall ensure that the first set of results are received by the Board 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 Board shall be notified immediately in writing of any positive results or if Mr. Lewis 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 Board immediately.

h. Mr. Lewis shall attend Alcoholics Anonymous, Caduceus recovery support groups, or other groups acceptable to the Board three times per week and shall have written evidence of attendance by a sponsor or contact person sent to the Board monthly.

i. Mr. Lewis 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 court-appointed probation or parole officers and any consultants designated by the Board.

j. Mr. Lewis 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.

k. Mr. Lewis shall return all copies of his license to practice as a professional nurse to the Board office within ten days of the date of entry of this Order along with a payment of a fee of \$5.00. Upon receipt, the Board shall issue a new license marked “Valid in Virginia Only; Probation with Terms” or a certificate marked “Probation with Terms.”

l. Mr. Lewis shall conduct himself as a professional nurse in compliance with the requirements of Title 54.1, Chapter 30 of the Code and the Board of Nursing Regulations.

m. Any violation of the terms and conditions stated in this Order shall be reason for

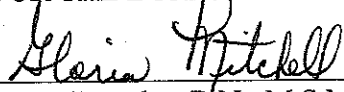
revoking the license of Mr. Lewis and an administrative proceeding shall be held to decide whether his license shall be revoked.

2. The Order is applicable to Mr. Lewis' multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. For the duration of the Order, Mr. Lewis 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 the party state where he wishes to work. Any request for out of state employment should be directed, in writing, to the Executive Director of the Board.

This Order is subject to appeal to the Board. If Mr. Lewis desires a formal administrative hearing before the Board pursuant to §§ 2.2-4020 and 2.2-4021 of the Code, he must notify Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233, in writing, within thirty-three (33) days from the date of service of this Order. Upon the filing of a request for the hearing with the Executive Director, this Order shall be vacated.

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.

FOR THE BOARD


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

Entered: February 3, 2011