

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: LINDSEY LIVINGSTONE, L.P.N. APPLICANT

ORDER

In accordance with §§ 2.2-4019, 2.2-4021 and 54.1-2400(7) and (10) of the Code of Virginia (1950), as amended ("Code"), an informal conference was conducted on behalf of the Board of Nursing ("Board") on September 1, 2011, in Henrico County, Virginia. Lindsey Livingstone was present and was not represented by legal counsel. Jodi Power, R.N., J.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On November 15, 2011, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Livingstone was not present nor was she 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. Lindsey Livingstone submitted an application for licensure as a practical nurse by examination which was received by the Virginia Board of Nursing on March 31, 2011, following successful completion of the practical nursing education program at ECPI College of Technology in Virginia Beach, Virginia.

2. By letter dated August 1, 2011, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Livingstone notifying her that an informal conference would be held on September 1, 2011. The Notice was sent by certified and first class mail to 110 North Oceana Boulevard, Virginia Beach, Virginia 23454, the address of record on file with the Board of Nursing.

3. Ms. Livingstone was convicted in 2004 and again in 2005 for driving under the influence (DUI) in the General District Court of Virginia Beach, Virginia. She also was convicted of failure to appear on June 23, 2004, related to an appearance on the first DUI charge.

4. Ms. Livingstone has satisfied all court costs related to her convictions. She successfully completed the court ordered VASAP requirement in March 2011 following a nine-month period with an ignition interlock.

5. Ms. Livingstone entered treatment for substance abuse with Associates of York in September 2004, following her first DUI conviction. During treatment, she received her second DUI charge and submitted three urine drug screens that were positive for alcohol and/or cocaine. She returned to treatment as a result, and was successfully discharged from treatment with the Women's Recovery Program on September 27, 2005. At that time, it was highly recommended that she continue in individual therapy to further assist her with grieving the many losses she has experienced throughout her life.

6. Ms. Livingstone reports April 2, 2008 as her date of sobriety. She does not currently attend 12-step meetings, but reports positive support systems in place including the Wave Women support group through her church. She indicated that she sought treatment for depression approximately one and one-half years ago with Pembroke 6, after she started "spiraling downward". Currently, she sees her therapist once every one to three weeks and takes Zoloft as prescribed.

7. On her application for licensure dated March 29, 2011, Ms. Livingstone answered "no" to the question whether she had a "chemical dependency condition which could interfere with your current ability to practice nursing," despite two convictions for driving under the influence, completing substance abuse treatment required by the court, and an admitted history of substance abuse. She explained that she revealed the convictions but answered "no" on the application because she does not

believe she is an alcoholic or chemically dependent, but rather she abused alcohol and other substances as a result of ineffective coping skills; she does not feel she needs further treatment.

8. At the informal conference, Ms. Livingstone indicated that she would be willing to participate in the Virginia HPMP.

9. Ms. Livingstone is currently employed in a non-nursing position, with Ocean Rentals. She was employed as a bartender when she received both DUI convictions and believes that nursing will provide her a fresh start.

CONCLUSIONS OF LAW

1. Findings of Fact Nos. 3, 5, and 6 constitute a violation of § 54.1-3007(6) of the Code.
2. Ms. Livingstone is a candidate for the HPMP.
3. Ms. Livingstone otherwise meets the requirements of § 54.1-3020 of the Code.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. The application of Lindsey Livingstone for licensure by examination as a practical nurse is APPROVED, contingent upon the following conditions:
 - a. Ms. Livingstone shall provide the Board with proof of entry into the HPMP.
 - b. Thereafter, Ms. Livingstone shall comply with the terms and conditions of the HPMP for the period specified by the HPMP.
2. This Order is applicable to Ms. Livingstone's multistate licensure privileges, if any, to practice practical nursing in the Commonwealth of Virginia. For the duration of this Order, Ms. Livingstone 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 she wishes to work. Any requests for out of state employment should be directed,

in writing, to the Executive Director of the Board.

3. Lindsey Livingstone shall maintain a course of conduct in her capacity as a practical nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

4. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Ms. Livingstone, and an administrative proceeding shall be held to decide whether his license should be revoked. Ms. Livingstone shall be noticed to appear before the Board at such time as the Board is notified that:

a. She is not in compliance with the terms and conditions of the HPMP, or has been terminated from participation in the HPMP;

b. There is a pending investigation or unresolved allegation against her involving a violation of law or regulation or any term or condition of this Order; or

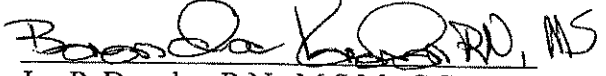
c. She has successfully completed the above-referenced period of participation in the HPMP. However, upon receipt of Ms. Livingstone's participation in and compliance with the HPMP, the Board, at its discretion, may waive her appearance before the Board and conduct an administrative review of this matter.

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.

Pursuant to Section 54.1-2400(10) of the Code, Ms. Livingstone may, not later than 5:00 p.m., on December 27, 2011, notify 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, in writing that she desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for

the hearing, this Order shall be vacated.

FOR THE BOARD:


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

ENTERED: Nov. 23, 2011

This Order shall become final on **December 27, 2011**; unless a request for a formal administrative hearing is received as described above.