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VA BD OF NURSING

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: NANCY BIRCKHEAD, R.N.
License No.: 0001-169268

CONSENT ORDER

The Virginia Board of Nursing ("Board") and Nancy Birckhead, R.N., as evidenced by her signature hereto, enter into the following Consent Order affecting Ms. Birckhead's license to practice professional nursing in Virginia.

The Board adopts the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Nancy Birckhead, R.N., was issued License No. 0001-169268 to practice professional nursing by the Virginia Board of Nursing on June 27, 2000. Said license is set to expire on September 30, 2013. Her primary state of residence is Virginia.
2. During the course of Ms. Birckhead's employment at the University of Virginia, Healthsouth Rehabilitation Hospital, Charlottesville, Virginia, from March, 2011, to April, 2011, she diverted approximately 12 dosage units of oxycodone (Schedule II) per week. She started diverting oxycodone as soon as she was finished with her orientation at the hospital and not watched closely by other staff, which was in the beginning of March, 2011. Ms. Birckhead accomplished the diversion by fraudulently documenting the pain level of patients at a six or higher in order to remove two dosage units at a time, administering one to the patient and keeping one to herself. She then fraudulently documented administering all the medication to the patient. Ms. Birckhead admitted the diversion after a Pyxis report for March 28, 2010, to April 5, 2010, comparing users who removed alprazolam (Schedule IV), Vicodin (hydrocodone,

Schedule III), Percocet (oxycodone, Schedule II) and oxycodone for similar patients and during similar shifts revealed that Ms. Birckhead had 62 removals, and the next highest nurse had 11 removals.

3. When Healthsouth Rehabilitation Hospital discovered Ms. Birckhead's diversion, her employment was terminated.

4. Ms. Birckhead has a history of addiction to narcotic pain medications.

5. Ms. Birckhead signed a Participation Contract that was received by the Health Practitioner's Monitoring Program ("HPMP") on May 3, 2010. She signed a Recovery Monitoring Contract that was received by the HPMP on June 21, 2010. In August, 2010, Ms. Birckhead was granted a Stay of Disciplinary Action.

6. In a HPMP Committee Report dated October 5, 2011, Ms. Birckhead's HPMP Case Manager reported that On June 21, 2010, Ms. Birckhead submitted a dilute urine specimen. The Case Manager warned Ms. Birckhead for missed calls in September and October 2010. Moreover, Ms. Birckhead failed to submit May group and self-reports as well as treatment reports for January, April, and August, 2011. The Case Manager eventually received the missing treatment reports for January and April but not the missing self and group reports. By letter dated October 7, 2011, the HPMP Committee notified Ms. Birckhead that her stay of disciplinary action was vacated. However, she is still under contract with the HPMP.

CONCLUSIONS OF LAW

Finding of Fact No. 2 constitutes a violation of § 54.1-3007(2), (5), and (6) of the Code of Virginia (1950), as amended ("Code") and 18 VAC 90-20-300(A)(2)(c) and (e) of the Regulations Governing the Practice of Nursing.

CONSENT

Nancy Birckhead, R.N., by affixing her signature hereon, agrees to the following:

1. She has been advised to seek advice of counsel prior to signing this document;

2. She acknowledges that without her consent, no legal action can be taken against her except pursuant to the Virginia Administrative Process Act, § 2.2-4000(A) *et seq.* of the Code;
3. She acknowledges that she has the following rights, among others: the right to an informal fact finding conference before the Board, the right to reasonable notice of said hearing, the right to representation by counsel, and the right to cross-examine witnesses against her;
4. She waives all such right to an informal conference;
5. She admits to the Findings of Fact and Conclusions of Law contained herein and waives her right to contest such Findings of Fact and Conclusions of Law in any subsequent proceeding before the Board;
6. She consents to the entry of the following Order affecting her right to practice professional nursing in Virginia.

ORDER

WHEREFORE, on the basis of the foregoing, the Virginia Board of Nursing, effective upon entry of this Order, and in lieu of further proceedings, hereby ORDERS as follows:

1. The Board shall TAKE NO ACTION at this time contingent on the following conditions:
 - a. Nancy Birckhead, R.N., shall comply with all terms and conditions of the HPMP for the period specified by the HPMP.
 - b. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Ms. Birckhead, and an administrative proceeding shall be held to determine whether her license shall be revoked. Ms. Birckhead shall be noticed to appear before the Board at such time as the Board is notified that:
 - i. Ms. Birckhead is not in compliance with the terms and conditions specified by the HPMP;

- ii. Ms. Birckhead's participation in the HPMP has been terminated;
- iii. There is a pending investigation or unresolved allegation against Ms. Birckhead involving a violation of law, regulation, or any term or condition of this order.
- iv. Ms. Birckhead has successfully completed the above-referenced period of participation in the HPMP. However, upon receipt of Ms. Birckhead's compliance with the HPMP, the Board, at its discretion, may waive Ms. Birckhead's appearance before the Board and conduct an administrative review of this matter.

3. This Order is applicable to Ms. Birckhead's multistate licensure privileges, if any, to practice as a professional nurse in the Commonwealth of Virginia. For the duration of this Order, Ms. Birckhead 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.

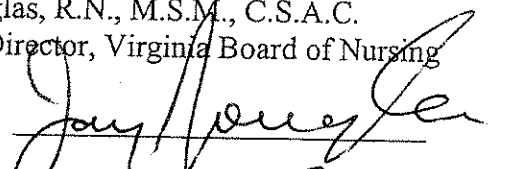
4. Ms. Birckhead shall maintain a course of conduct in her capacity as a professional nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

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 upon request.

FOR THE BOARD

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

ENTERED:


April 19th 2012

SEEN AND AGREED TO:

Nancy Birkhead RN
Nancy Birkhead, R.N.

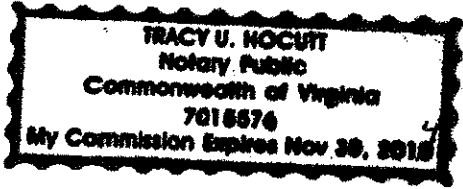
COMMONWEALTH OF VIRGINIA,
COUNTY/CITY OF Albemarle, TO WIT:

Subscribed and sworn to before me, Tracy U. Hocutt
Tracy U. Hocutt a Notary Public, this 3rd day of
April, 2012.

My commission expires November 30, 2014.

Registration Number 7015576

Tracy U. Hocutt
NOTARY PUBLIC



Certified True Copy

By agraham

Virginia Board of Nursing