

VIRGINIA:

BEFORE THE COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE

IN RE: LEE S. PHILLIPS, R.N., L.N.P.
License Nos.: 0024-167440, 0017-138884

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 of the Joint Boards") on April 9, 2014, in Henrico County, Virginia, to inquire into evidence that Lee S. Phillips, R.N., L.N.P., may have violated certain laws and regulations governing the practice of licensed nurse practitioners in Virginia. The case was presented by Tammie D. Jones, Adjudication Specialist, Administrative Proceedings Division. Erin Barrett, Assistant Attorney General, was present as legal counsel for the Board. Ms. Phillips was present and was represented by Margaret Hardy, 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. Lee S. Phillips, R.N., L.N.P., was issued License No. 0001-072656 on March 16, 1979 to practice professional nursing in Virginia. Ms. Phillips was issued License No. 0024-167440 on July 11, 2007 to practice as a nurse practitioner with a specialty of psychiatric and mental health. Ms. Phillips was issued Prescriptive Authority No. 0017-138884 on July 11, 2007. Each license is scheduled to expire on May 31, 2014. Ms. Phillips also holds License No. 5006020, which expires on May 31, 2014, to practice as a nurse practitioner in the State of North Carolina. Her primary state of residence is Virginia.

2. From April, 2011, to January 25, 2013, Ms. Phillips wrote prescriptions for herself for Losartan, HCTZ, and Metoprolol without a bona fide practitioner-patient relationship. Ms. Phillips testified that she

prescribed these medications for herself during a period in which she did not have health insurance, which totaled three years. She did not contact her former care provider to ask for an extension of the prescriptions. Ms. Phillips testified to the Committee of the Joint Boards that she did not maintain an adequate record of her self-treatment.

3. On August 18, 2011, Ms. Phillips wrote prescriptions for Losartan and HCTZ, each with eleven refills, for her sister, without a bona fide practitioner-patient relationship. Ms. Phillips called in the prescription and refills to a pharmacy in California following a phone conversation with her sister, in which her sister told her that she had received a high blood pressure reading. Ms. Phillips did not take her sister's blood pressure. Ms. Phillips testified that, at the time, she believed the situation was an emergency that required an immediate prescription with eleven refills. However, Ms. Phillips testified that she did not believe her sister should have gone to an emergency room for immediate treatment, nor did Ms. Phillips notify her sister's physician in California of the issue. Ms. Phillips testified that her specialty as a nurse practitioner was psychiatric and mental health and that she was practicing outside of the specialty for which she received certification.

4. On December 2, 2012, Ms. Phillips submitted a prescription refill request to Rite Aid Pharmacy #4381 for herself as the patient and indicated that she was practicing at Fairfield Psychological Associates, P.C., Virginia Beach, Virginia, when, in fact, her contract with Fairfield had been terminated on August 20, 2012.

5. On November 29, 2011 and February 9, 2012, Ms. Phillips phoned in fraudulent prescriptions for herself for Tussionex suspension (hydrocodone, Schedule III), using the name of her gynecologist as the prescriber. Ms. Phillips testified that she believed her gynecologist, Dr. Willard, gave her verbal consent based on an informal conversation outside of an office setting, to call in the prescriptions for Ms. Phillips on Dr. Willard's behalf. Dr. Willard has no patient records for the prescriptions and testified to the Committee of the Joint Boards that he had no recollection of the verbal consent referred to by Ms. Phillips.

6. Two current coworkers, including her collaborating physician, testified on behalf of Ms. Phillips. Both testified to the Committee of the Joint Boards that they had witnessed no current patient care issues.

7. The Committee of the Joint Boards noted some inconsistencies in Ms. Phillips' testimony and the evidence presented to the Committee of the Joint Boards about multiple terminations from previous practices. Those inconsistencies called Ms. Phillips' credibility into question.

CONCLUSIONS OF LAW

The Board concludes that:

1. Finding of Fact No. 2 constitutes a violation of §§ 54.1-3007(5) and 54.1-3303(A) of the Code, 18 VAC 90-30-220(3) and (4) of the Regulations Governing the Licensure of Nurse Practitioners, and 18 VAC 90-40-121(A) and (C) and 90-40-130(A)(1) of the Regulations for Prescriptive Authority for Nurse Practitioners.

2. Finding of Fact No. 3 constitutes a violation of §§ 54.1-3007(5) and 54.1-3303(A) of the Code, 18 VAC 90-30-220(3) and (4) of the Regulations Governing the Licensure of Nurse Practitioners, and 18 VAC 90-40-121(A) and (C) and 90-40-130(A)(1) of the Regulations for Prescriptive Authority for Nurse Practitioners.

3. Finding of Fact No. 5 constitutes a violation of §§ 54.1-3007(5) and 54.1-3303(A) of the Code, 18 VAC 90-30-220(3) and (4), of the Regulations Governing the Licensure of Nurse Practitioners, and 18 VAC 90-40-130(A)(1) of the Regulations for Prescriptive Authority for Nurse Practitioners.

ORDER

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

1. Lee S. Phillips, R.N., L.N.P., is hereby REPRIMANDED.
2. Ms. Phillips shall provide verification that she has completed a face-to-face, 15-hour course on proper prescribing, approved by the Committee of the Joint Boards, within 60 days of the entry of this Order.

3. Ms. Phillips shall submit to the Committee of the Joint Boards her current practice agreement with the collaborating physician, for every practice location, which includes the schedules and categories of drugs to be prescribed, within 30 days of the entry of this Order.

4. Ms. Phillips shall submit to the Committee of the Joint Boards certification of her review of laws and regulations governing nurse practitioners and prescriptive authority in Virginia, within 30 days of the entry of this Order.

5. Ms. Phillips shall submit a copy of this Order to all current employers and provide verification that she has done so to the Committee of the Joint Boards within 30 days of the entry of this Order. Thereafter, for any new employment, Ms. Phillips shall submit a copy of this Order to the employer within 30 days of hire and shall provide verification to the Committee of the Joint Boards that she has done so.

6. Ms. Phillips shall maintain a course of conduct in her capacity as a nurse practitioner commensurate with the requirements of § 54.1-2957 *et seq.* of the Code, Regulations Governing the Licensure of Nurse Practitioners, Regulations for Prescriptive Authority for Nurse Practitioners and the Regulations Governing the Practice of Nursing.

7. Any violation of the terms and conditions of this Order or of any law or regulation affecting the practice of nurse practitioners in the Commonwealth of Virginia shall constitute grounds for the suspension or revocation of the license of Lee S. Phillips, R.N., L.N.P., and an administrative proceeding shall be convened to determine whether such 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 COMMITTEE OF THE JOINT BOARDS

for *Gloria Mitchell*
Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director
Virginia Board of Nursing

April 30, 2014
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 *d. Graham*
Virginia Board Of Nursing