

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE: EILEEN MASSIMINO, L.P.N.**

**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 panel of the Board of Nursing ("Board") on March 18, 2009, in Henrico County, Virginia, to inquire into evidence that Eileen Massimino, L.P.N., may have violated certain laws and regulations governing practical nursing practice in Virginia. The case was presented by Anne Glick Joseph, Deputy Director, Administrative Proceedings Division. Amy Marschean, Senior Assistant Attorney General, was present as legal counsel for the Board. Ms. Massimino was not present and was not represented by legal counsel. 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. Eileen Massimino was issued License No. 0002-049909 to practice practical nursing by the Virginia Board of Nursing on September 7, 1994. Said license was suspended by Order of the Board entered February 10, 2009.

2. Based on the representations of Anne Glick Joseph, Deputy Director for the Administrative Proceedings Division, and Commonwealth's exhibits 1 and 2, the Order of Summary Suspension, Notice of Hearing and Statement of Particulars, and Affidavit of Mailing, the Board found that Ms. Massimino had received adequate notice of the proceedings and the formal hearing proceeded in her absence.

3. Ms. Massimino is unsafe to practice practical nursing due to substance abuse, as evidenced by the following:

a. During the course of her employment at Coliseum Park Nursing Home, Hampton, Virginia, on or about September 7 and October 15, 2008, Ms. Massimino was observed sleeping during her shift and on a break. On one occasion, when she awoke, her gait was unsteady as she walked down the hall. On another occasion, while on break, she nodded off and almost burned herself with a cigarette she was holding, and her eyes were red and glassy.

b. Ms. Massimino has a longstanding history of abuse of heroin, cocaine, and narcotic pain medication, for which she received treatment for multiple periods in 2007 and 2008 without any evidence of sustained periods of sobriety.

4. On an application for employment with Golden Living Center – Bayside of Poquoson, Virginia (“Bayside”), dated November 18, 2008, Ms. Massimino intentionally omitted her employment with Coliseum Park Nursing Home, which was terminated on or about October 17, 2008, for excessive tardiness and medication mismanagement. Ms. Massimino acknowledged to an investigator for the Department of Health Professions that she had deliberately omitted her employment with Coliseum Park because she feared that her termination would interfere with her ability to secure employment at Bayside.

### **CONCLUSIONS OF LAW**

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(6) of the Code of Virginia (1950), as amended (“Code”).

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

### **ORDER**

WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS as follows:

1. License No. 0002-049909 issued to Eileen Massimino to practice practical nursing in the Commonwealth of Virginia is hereby CONTINUED ON INDEFINITE SUSPENSION for a period of not less

than 24 months.

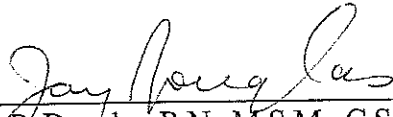
2. The license will be recorded as SUSPENDED and no longer current. Should Ms. Massimino seek reinstatement of her license consistent with this Order, she shall be responsible for any fees that may be required for the reinstatement of her license prior to issuance of her license to resume practice.

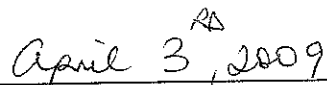
3. At such time as Ms. Massimino shall petition the Board for reinstatement of her license, a hearing will be convened to determine whether she is able to return to the safe and competent practice of practical nursing.

4. This Order shall be applicable to Ms. Massimino's multistate licensure privileges, if any, to practice practical nursing in the Commonwealth of Virginia.

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

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

  
\_\_\_\_\_  
ENTERED

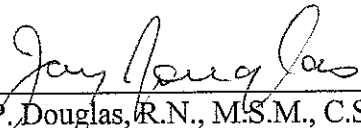
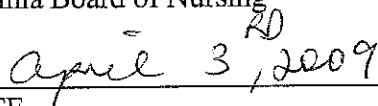
### **NOTICE OF RIGHT TO APPEAL**

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, Richmond, 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.

**Certificate of Service**

I hereby certify that a true copy of the foregoing Order was mailed on this day to Eileen Massimino, at P.O. Box 1013, Mathews, Virginia 23109 and at 12015 Jefferson Avenue, Suite 336, Newport News, Virginia 23602.

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