

TENNESSEE BOARD OF NURSING
227 French Landing, Iris Room
Heritage Place, Metro Center
Nashville, TN 37243
December 8-9, 2010

PANEL 2 MINUTES

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| Call to Order | Barbara Brennan, RN called the meeting to order at 8:38 a.m. |
| Roll Call/Declaration of a quorum | Brennan declared a panel quorum present. |
| Members Present | Barbara Brennan, RN, Chairperson Terri Bowman, LPN Kathleen Harkey, Consumer Member Arthur Thompson, LPN |
| Guests in the Audience | Brennan recognized guests in the audience. |
| Introduction of Staff | Elizabeth Lund and Ashley Carter introduced their staff. |
| Staff Present | Elizabeth Lund, Executive Director Elizabeth Miller, Director of Health Related Boards Ashley Carter, Deputy General Counsel Rachel Appelt, Attorney Marc Guilford, Attorney Brian Sims, Attorney S. Lexie Whittemore, Attorney Donna Fairchild, Nurse Consultant Joan Harper, Administrative Director Anne Massieu, Nurse Consultant |
| Insufficient Funds Suspensions | None |

CONTESTED CASE HEARINGS
PANEL 2
Judge Steve Darnell Presiding

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| Roll Call and Declaration of a Quorum | 8:48 Brennan called the panel to order and Judge Darnell instructed the Board pertaining to the hearing process. |
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Present

Barbara Brennan, RN, Chairperson
Terri Bowman, LPN
Kathleen Harkey, Consumer Member
Arthur Thompson, LPN

Contested Case Hearings

| NAME | LIC | ACTION |
|------------------------|-----------|---|
| Andrew Griffith | LPN 72259 | <p>Mr. Griffith was not present and not represented by an attorney. Brian Sims made a motion to proceed in default. He presented proof of service. Bowman made a motion to proceed in default. A. Thompson seconded the motion. The motion carried.</p> <p>Mr. Sims passed out the notice of charges. Mr. Griffith is charged with violations of T.C.A. 63-7-115 (a)(1) (F) unprofessional conduct and (G) violation of a board order. Following testimony and presentation of evidence, Bowman made a motion to find allegations 3-7 to be true. Harkey seconded the motion and the motion carried.</p> <p>Bowman made a motion to find the respondent in violation of T.C.A. 63-7-115 (a)(1) (F) and (G). Harkey seconded the motion. The motion carried.</p> <p>Bowman made a motion to revoke the license of the respondent, impose one Type A civil penalty for a total of \$1,000, and charge court costs not to exceed \$3,000. Harkey seconded the motion. Motion carried.</p> <p>Brennan made the policy statement. A motion to accept the policy statement was made, seconded and carried.</p> |
| Cheryl Larue Swaggerty | RN 149829 | <p>Ms Larue-Swaggerty was not present and not represented by an attorney. Marc Guilford made a motion to proceed in default. He presented proof of service. A. Thompson made a motion to proceed in default. Harkey seconded the motion.</p> |

The motion carried.

Mr. Guilford passed out the notice of charges. Ms. Larue-Swaggerty is charged with violations of T.C.A. 63-7-115 (a)(1) (F) unprofessional conduct and Nursing Rule 1000-1-.13(1)(j), discipline in another state. Following testimony and presentation of evidence, Bowman made a motion to find allegations 3-7 to be true. A. Thompson seconded the motion and the motion carried.

Bowman made a motion to find the respondent in violation of T.C.A. 63-7-115 (a)(1) (F) and Nursing Rule 1000-1-.13(1)(j). Harkey seconded the motion. The motion carried.

Bowman made a motion to **revoke** the license of the respondent, impose one Type A civil penalty for a total of \$1,000, and charge court costs not to exceed \$3,000. A. Thompson seconded the motion. Motion carried.

Brennan made the policy statement. A motion to accept the policy statement was made, seconded and carried.

Elaina A. Consiglio

RN 100245

Ms Consiglio was present and represented herself. Mr. Guilford represented the State of Tennessee. Mr. Guilford passed out the notice of charges. Ms. Consiglio is charged with violation of T.C.A. 63-7-115 (a)(1) (G), violation of a Board order.

Following testimony and presentation of evidence, Bowman made a motion to find allegations 3-8 (6 and 7 with addition/correction) to be true. Harkey seconded the motion and the motion carried.

Bowman made a motion to find the respondent in violation of T.C.A. 63-7-115 (a)(1) (G). Harkey seconded the motion. The motion carried.

Bowman made a motion to **revoke** the license of

the respondent, waive civil penalties, and charge court costs not to exceed \$1,000. Harkey seconded the motion. Motion carried.

Brennan made the policy statement. A motion to accept the policy statement was made, seconded and carried.

Angel Santora

LPN 51941

Ms. Santora was not present nor represented by an attorney. Ms. Whittemore represented the State of Tennessee. Ms. Whittemore passed out the notice of charges and made a motion to proceed in default. She presented proof of service. Bowman made a motion to proceed in default. A. Thompson seconded the motion. The motion carried.

Ms. Santora is charged with violation of T.C.A. 63-7-115 (a)(1) (C), unfit to practice and (F), unprofessional conduct; violations of Nursing Rules 1000-2-.13 (1) (b) failure to maintain a record for each patient, (c) unauthorized use or removal of narcotics and (w) engaging in acts of dishonesty in nursing.

Following testimony and presentation of evidence, Bowman made a final motion to find allegations 3-10 to be true. Harkey seconded the motion and the motion carried.

Bowman made a motion to find the respondent in violation of T.C.A. 63-7-115 (a)(1) (C) and (F) and 1000-2-.13 (b) (c) (w). Harkey seconded the motion. The motion carried.

Bowman made a motion to **revoke** the license of the respondent, impose one Type A Civil Penalty of \$1,000, and charge court costs not to exceed \$3,000. Harkey seconded the motion. Motion carried.

Brennan made the policy statement. A motion to accept the policy statement was made, seconded and carried.

Janice L.B. Wynn

LPN 34475

Ms. Wynn was present and represented herself.

Ms. Whittemore represented the State of Tennessee. Ms. Whittemore passed out the notice of charges. Ms. Wynn is charged with violation of T.C.A. 63-7-115 (a)(1) (F), unprofessional conduct (G), violation of a Board order and 1000-2-.13 (t) practicing nursing in a manner inconsistent with T.C.A. 63-7-108.

Following testimony and presentation of evidence, Bowman made a motion to find allegations 3-8 with a correction on 6 to be true. Harkey seconded the motion and the motion carried.

Bowman made a motion to find the respondent in violation of T.C.A. 63-7-115 (a) (1) (F) and (G) and 1000-2-.13 (t). Harkey seconded the motion. The motion carried.

Bowman made a motion to **suspend** the license of the respondent pending TnPAP evaluation followed by **probation** to run the term of a TnPAP contract if one is recommended and charge court costs not to exceed \$3,000. Harkey seconded the motion. Motion carried.

Brennan made the policy statement. A motion to accept the policy statement was made, seconded and carried.

Stephanie Joseph

LPN 72399

Ms. Joseph was not present and not represented by an attorney. Ms. Whittemore represented the State of Tennessee. Ms. Whittemore passed out the notice of charges and made a motion to proceed in default. She presented proof of service. A. Thompson made a motion to proceed in default. Harkey seconded the motion. The motion carried.

Ms. Joseph is charged with violation of T.C.A. 63-7-115(a) (1) (F), unprofessional conduct; violations of Nursing Rules 1000-2-.13 (1) (b) failure to keep a record for each patient, (d) Making false or materially incorrect entries in any patient records, (e) unauthorized removal of narcotics and (v) engaging in acts of dishonesty

in nursing.

Following testimony and presentation of evidence, Bowman made a final motion to find allegations 3-8 with an addition to 8, to be true. Harkey seconded the motion and the motion carried.

A. Thompson made a motion to find the respondent in violation of T.C.A. 63-7-115 (a)(1) (F) and 1000-2-.13 (1) (b) (d) (e) (v). Harkey seconded the motion. The motion carried.

Bowman made a motion to **revoke** the license of the respondent, impose one Type A Civil Penalty of \$1,000, and charge court costs not to exceed \$3,000. Harkey seconded the motion. Motion carried.

Brennan made the policy statement. A motion to accept the policy statement was made, seconded and carried.

Lunch Break

12:00-1:15

Call to Order

1:15 Judge Steve Darnell Presiding

Panel Members Present:

Barbara Brennan, RN, Chairperson

Terri Bowman, LPN

Kathleen Harkey, Consumer Member

Arthur Thompson, LPN

**Contested Cases
Continued**

Leslie Forbes

RN 125969

Ms. Forbes was not present and not represented by an attorney. Ms. Whittemore represented the State of Tennessee. Ms. Whittemore passed out the notice of charges and made a motion to proceed in default. She presented proof of service. Bowman made a motion to proceed in default. Harkey seconded the motion. The motion carried.

Ms. Forbes is charged with violation of T.C.A.

63-7-115 (a) (1) (F), unprofessional conduct; violation of Nursing Rules 1000-1-.13 (1) , (d) making false or materially incorrect entries in any patient records, (g) being under the influence of alcohol or drugs while on duty.

Following testimony and presentation of evidence, Bowman made a final motion to find allegations 3-9 with editing 10-13 with changes, 14, and an additional fact, 15, to be true. Harkey seconded the motion and the motion carried.

A. Thompson made a motion to find the respondent in violation of T.C.A. 63-7-115 (a) (1) (F) and 1000-2-.13 (1) (d) and (g). Harkey seconded the motion. The motion carried.

Bowman made a motion to **revoke** the license of the respondent, impose one Type A Civil Penalty of \$1,000, and charge court costs not to exceed \$3,000. A. Thompson seconded the motion. Motion carried.

Brennan made the policy statement. A motion to accept the policy statement was made, seconded and carried.

Eustacia Y. Adams

RN 165502

Ms. Adams was not present and not represented by an attorney. Mr. Guilford represented the State of Tennessee. Mr. Guilford passed out the notice of charges and made a motion to proceed in default. He presented proof of service. Bowman made a motion to proceed in default. Harkey seconded the motion. The motion carried.

Ms. Adams is charged with violation of T.C.A. 63-7-115 (a) (1) (C) unfit for practice (F), unprofessional conduct; violations of Nursing Rules 1000-1-.13 (1) (b) failure to keep a record which accurately reflects the nursing problems and interventions (d) making false or materially incorrect entries in any patient records, (e) unauthorized use or removal of narcotics, drugs supplies or equipment, (u) practicing nursing in a manner inconsistent with T.C.A. 63-7-103, (w)

engaging in acts of dishonesty which relate to the practice of nursing.

Following testimony and presentation of evidence, Bowman made a final motion to find allegations 3-11 to be true. A. Thompson seconded the motion. Following discussion, the motion carried.

Bowman made a motion to find the respondent in violation of T.C.A. 63-7-115 (a) (1) (C) (F) and 1000-2-.13 (1) (b) (d) (e) (u) and (w). Harkey seconded the motion. The motion carried.

Bowman made a motion to **revoke** the license of the respondent, impose one Type A Civil Penalty of \$1,000, and charge court costs not to exceed \$3,000. Harkey seconded the motion. Motion carried.

Brennan made the policy statement. A motion to accept the policy statement was made, seconded and carried.

Tina Baker

LPN 73375

Ms. Baker was present with her attorney, Robbie Bell. Ms. Whittemore represented the State of Tennessee. Ms. Whittemore passed out the notice of charges.

Ms. Baker is charged with violation of Tennessee Code Annotated 63-7-115 (a) (1) (F) unprofessional conduct; Nursing Rule 1000-2-.13 (1) (g) being under the influence of alcoholic beverages or under the influence of drugs which impair judgment while on duty in any health care facility, school institution or other work place location.

During the proceedings, Ms. Bell made a motion to dismiss the case. Following her argument, Judge Darnell denied the motion.

Following testimony and presentation of evidence, Bowman made a motion to find allegations 3, 4, 5, 6, 7, 8 with a date amendment

to be true. Harkey seconded the motion. Following discussion, the motion carried.

Bowman made a motion to find the respondent in violation of T.C.A. 63-7-115 (a) (1) (F). A. Thompson seconded the motion. The motion carried.

Bowman made a final motion to **suspend** the license of the respondent pending TnPAP evaluation within 60 days, cooperation of TnPAP recommendations, followed by **probation** to run concurrently with an individualized TnPAP contract if one is indicated, impose one Type C Civil Penalty of \$100, and charge court costs not to exceed \$3,000. Harkey seconded the motion. Motion carried.

Brennan made the policy statement. A motion to accept the policy statement was made, seconded and carried.

Adjourn

4:40 p.m.

Reconvene

9:00 a.m. December 9, 2010

Call to Order

Barbara Brennan, RN called the meeting to order at 9:04 a.m.

Roll Call/Declaration of a quorum

Brennan declared a panel quorum present.

Members Present

Barbara Brennan, RN, Chairperson
Terri Bowman, LPN
Kathleen Harkey, Consumer Member
Debbie Holliday, LPN
Arthur Thompson, LPN

Staff Present

Elizabeth Lund, Executive Director
Ashley Carter, Deputy General Counsel
Rachel Appelt, Attorney
Marc Guilford, Attorney
S. Lexie Whittemore, Attorney
Kyonzte Hughes-Toombs
Ectory Lawless

Tonya LaDeau, Paralegal
Donna Fairchild, Nurse Consultant
Joan Harper, Administrative Director
Anne Massieu, Nurse Consultant

**Contested Case
Hearings Continued**

9:20 a.m. Judge Adgent presiding

| NAME | LICENSE | ACTION |
|---------------|----------------|--|
| Debra Wolford | RN 145717 | <p>Ms. Wolford was not present and not represented by an attorney. Ms. Whittemore represented the State of Tennessee. Ms. Whittemore passed out the notice of charges and made a motion to proceed in default. She presented proof of service. Bowman made a motion to proceed in default. A. Thompson seconded the motion. The motion carried.</p> <p>Ms Wolford is charged with violations of Tennessee Code Annotated 63-7-115 (a) (1) (F) unprofessional conduct and Nursing Rules 1000-1-.13 (1) (t) practicing nursing in a manner inconsistent with T.C.A. 63-7-108 and (w) engaging in acts of dishonesty which relate to the practice of nursing.</p> <p>Following testimony and presentation of evidence, Bowman made a motion to find allegations 3-7 with an addition to 7 to be true. Harkey seconded the motion. Following discussion the motion carried.</p> <p>Bowman made a motion to find the respondent in violation of Tennessee Code Annotated 63-7-115 (a) (1) (F) and Nursing Rules 1000-1-.13 (1) (t) and (w). Harkey seconded the motion. The motion carried.</p> <p>Bowman made a motion to revoke the license of the respondent, impose one Type A Civil Penalty of \$1,000, and charge court costs not to exceed \$3,000. Harkey seconded the motion. Motion carried.</p> |

Brennan made the policy statement. A motion to accept the policy statement was made, seconded and carried.

Marian Williams

LPN 64573

Ms. Williams was not present and not represented by an attorney. Ms. Forbes was not present and not represented by an attorney. Ms. Appelt represented the State of Tennessee. Ms. Appelt passed out the notice of charges and made a motion to proceed in default. She presented proof of service. Holliday made a motion to proceed in default. Harkey seconded the motion. The motion carried.

Ms. Williams is charged with violation of 63-7-115 (a) (1) (F) unprofessional conduct and nursing rules 1000-2-.13 (e) unauthorized removal of narcotics, (f) illegal use of a narcotic or dangerous drug while on duty and (t) practicing practical nursing in a manner inconsistent with T.C.A. 63-7-108.

Following testimony and presentation of evidence, Holliday made a motion to find allegations 3-10 to be true. Harkey seconded the motion. Motion carried.

Holliday made a motion to find the respondent in violation of T.C.A. 63-7-115 (a) (1) (F) unprofessional conduct and nursing rules 1000-2-.13 (e) (f) and (t). Harkey seconded the motion. Following discussion, the motion carried.

Holliday made a motion of **suspension** of the license pending TnPAP evaluation, compliance with evaluation recommendations followed by **probation** concurrent with a TnPAP contract if one is indicated; waive civil penalties and charge court costs not to exceed \$3,000. A. Thompson seconded the motion. Motion carried.

Brennan made the policy statement. A motion to accept the policy statement was made, seconded and carried.

Break

10:45 a.m.-11:00 a.m.

Reconvene

11:00 a.m. Judge Adgent presiding

Present:

Barbara Brennan, RN, Chairperson

Terri Bowman, LPN

Kathleen Harkey, Consumer Member

Debbie Holliday, LPN

Arthur Thompson, LPN

Anita Colleen Payton LPN 61534

Ms. Payton was not present and not represented by an attorney. Ms. Whittemore represented the State of Tennessee. Ms. Whittemore passed out the notice of charges and made a motion to proceed in default. She presented proof of service. Holliday made a motion to proceed in default. Harkey seconded the motion. The motion carried.

Ms Payton is charged with violations of Tennessee Code Annotated 63-7-115 (a) (1) (C) unfit or incompetent by reason of negligence, habits or other cause, (D) addicted to alcohol or other drugs to the degree of interfering with nursing duties, (F) unprofessional conduct and Nursing Rules 1000-1-.13 (1) (f) use of intoxicating beverage or illegal use of any narcotic or dangerous drug which impair judgment while on duty and (g) being under the influence while on duty.

Following testimony and presentation of evidence, Holliday made a motion to find allegations 1-10 and an additional allegation, number 11 to be true. Harkey seconded the motion. Following discussion the motion carried.

Holliday made a motion to find the respondent in violation of Tennessee Code Annotated 63-7-115 (a) (1) (C) (D) (F) and Nursing Rule 1000-2-.13 (1) (f) (g). Bowman seconded the motion. The motion carried.

Holliday made a motion to **revoke** the license of the respondent, impose one Type A Civil Penalty of \$1,000, and charge court costs not to exceed

\$3,000. Bowman seconded the motion. Motion carried.

Brennan made the policy statement. A motion to accept the policy statement was made, seconded and carried.

Agreed Orders

The Board received a copy of the Agreed Order Summaries. Following review of each case, the following actions were taken:

| NAME | LICENSE | ACTION |
|-----------------------|-----------|---|
| Beverly Drake | RN 135399 | Bowman made a motion to approve the order of suspension/probation . Harkey seconded the motion. The motion carried. |
| Lugenia A. Martin | LPN 47783 | Bowman made a motion to approve the order of suspension/probation . A. Thompson seconded the motion. The motion carried. |
| Christy M. Robertson | RN 86895 | Harkey made a motion to approve the order of suspension/probation . Holiday seconded the motion. Motion carried. |
| Stephanie A. Rutledge | LPN 52656 | Harkey made a motion, seconded by Holiday, to approve the order of probation . Motion carried. |
| Cynthia D. Sturgill | RN 103043 | Holiday made a motion, seconded by Bowman, to accept the voluntary surrender which has the same effect as revocation. |
| Nathan K. Vega | RN 160230 | Bowman made a motion, seconded by A. Thompson to approve the order of revocation . Motion carried. |
| Ashley Williams | LPN 63582 | Holiday made a motion, seconded by Harkey, to accept voluntary surrender , which has the same effect as revocation. Motion carried. |
| LaTonya Ziebart | LPN 65963 | Bowman made a motion not to approve the agreed order of probation. Harkey seconded the motion. Motion carried. Bowman made a motion, seconded by A. Thompson to refer the |

case to screening panel.

Consent Orders

The Board received a copy of the Consent Order Summary. The Board reviewed each case in detail. The following actions were taken.

| NAME | LICENSE | ACTION |
|--------------------|-----------|--|
| Michelle Coyle | RN 91621 | Bowman made a motion, seconded by Holliday, to accept the order of suspension/probation . Motion carried. |
| Marley D. Duff | RN 115470 | Bowman made a motion to approve the order of probation . Holliday seconded the motion. Motion carried. |
| Coy L. Ellis | RN 104017 | Holliday made a motion to approve the order of probation . Harkey seconded the motion. Motion carried. |
| Renee Mathis | RN 121216 | Holliday made a motion, seconded by Harkey, to approve the order of probation and continuing education. Motion carried. |
| Melissa Sawtelle | RN 80260 | Holliday made a motion, seconded by Bowman to accept the order of suspension/probation . Motion carried. |
| Whitney Taylor | RN 168911 | Bowman made a motion to accept voluntary surrender which has the same effect as revocation. Holliday seconded the motion. Motion carried. |
| Angela Marie Clapp | RN 151051 | Bowman made a motion, seconded by Holliday, to accept the order of probation . Motion carried. |
| Dawn Cowley | RN 125420 | Holliday made a motion to approve the order of revocation . Bowman seconded the motion. Motion carried. |

Screening Panel

The Board received a copy of a Screening Panel Summary. Following review of the case the following action was taken:

Sheila Elmendorf

RN 42570
APN 5344

Harkey made a motion to approve the order of **revocation** of only the APN certificate with the addition of an ethics course. A. Thompson seconded the motion. The motion carried.

Other Business

Comments by Al
Partee, Esq. General
Counsel

Mr. Partee expressed his appreciation to the Board of Nursing for their dedication. With the additional meetings held this year, and the number of cases heard last year, the Board has closed a record number of cases in the last two years. He acknowledged the hard work of the investigators, consultants and attorneys. Ms. Brennan thanked the Office of General Counsel for its guidance and accomplishments.

Adjournment

Brennan adjourned the meeting at 1:15 p.m.