

AUG 01 2011

DHP

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

EMILY FOWLER, R.N.

RECEIVED
AUG 01 2011

VA BD OF NURSING

CONSENT ORDER

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

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

FINDINGS OF FACT

1. Emily Fowler, R.N., was issued License No. 0001-194744 to practice professional nursing by the Virginia Board of Nursing on February 22, 2005. Said license is set to expire on December 31, 2011. Her primary state of residence is Virginia.
2. During the course of her employment at Virginia Commonwealth University Medical Center, Richmond, Virginia, Ms. Fowler diverted Percocet (oxycodone, Schedule II) from July, 2009, to October, 2009, for her personal and unauthorized use. Ms. Fowler accomplished the diversion by removing the medication from the Pyxis and falsely documenting that she wasted it.
3. On October 30, 2009, Ms. Fowler signed a Participation Contract with the Health Practitioners' Monitoring Program ("HPMP"). Ms. Fowler was granted a stay of disciplinary action in January, 2010. From March, 2010, to December, 2010, Ms. Fowler signed seven Recovery Monitoring Contracts with the HPMP. By letter dated December 14, 2010, HPMP notified Ms. Fowler that the stay of disciplinary action granted in January, 2010, was vacated. The stay of disciplinary action was vacated based on the following: While in residential treatment from November 23, 2009, to February 19, 2010, Ms. Fowler

was diagnosed with ADHD, and she reported being noncompliant with her treatment in March, 2010. Ms. Fowler failed to perform a urine drug screen check-in on October 8, 2010. On October 18, 2010, a Prescription Monitoring Program report indicated that Ms. Fowler received a prescription for hydrocodone (Schedule III) that she did not report to the HPMP. Finally, from June, 2010, to October, 2010, Ms. Fowler missed 23 out of 33 scheduled treatment sessions. However, the HPMP did not dismiss Ms. Fowler. On February 8, 2011, the HPMP approved Ms. Fowler to look for work.

CONCLUSIONS OF LAW

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

CONSENT

Emily Fowler, 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. Emily Fowler, 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. Fowler, and an administrative proceeding shall be held to determine whether her license shall be revoked. Ms. Fowler shall be noticed to appear before the Board at such time as the Board is notified that:

i. Ms. Fowler is not in compliance with the terms and conditions specified by the HPMP;

ii. Ms. Fowler's participation in the HPMP has been terminated;

iii. There is a pending investigation or unresolved allegation against Ms. Fowler involving a violation of law, regulation, or any term or condition of this order.

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

2. This Order is applicable to Ms. Fowler's multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. For the duration of this Order, she 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 Ms. Fowler

wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

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

ENTERED: August 12th, 2011

SEEN AND AGREED TO:

Emily Fowler, R.N.
Emily Fowler, R.N.

Certified True Copy

By Jamara Farmer
Virginia Board of Nursing

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

Subscribed and sworn to before me, Margaret C Harris, a Notary Public, this 26 day of July, 2011.

My commission expires July 31, 2014.

Registration Number 7365599

Margaret C Harris
NOTARY PUBLIC

