

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: KATHLEEN E. SHUMATE, R.N.
 License No.: 0001-106595**

ORDER

In accordance with §§ 2.2-4019, 2.2-4021 and 54.1-2400(10) of the Code of Virginia (1950), as amended ("Code"), an informal conference was conducted on behalf of the Board of Nursing ("Board") on February 15, 2012, in Henrico County, Virginia. Kathleen E. Shumate, R.N., was present and was not represented by legal counsel. Jane Elliott, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On May 16, 2012, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Shumate was not present and was not represented by legal counsel.

Based upon its review of the Recommended Decision of the Agency Subordinate, the Board makes the following Findings of Fact and Conclusions of Law and issues the following Order.

FINDINGS OF FACT

1. Kathleen E. Shumate, R.N., was issued License No. 0001-106595 to practice professional nursing in Virginia on August 17, 1987. The license is scheduled to expire on August 31, 2013. Pursuant to a Consent Order entered September 13, 1993, Ms. Shumate's license was suspended due to drug diversion and substance abuse. By Order entered December 27, 1994, Ms. Shumate's license was reinstated on probation with terms and conditions. The period of probation was for 18 months employment, which she completed on November 22, 1996. Her primary state of residence is Virginia.

2. By letter dated January 27, 2012, the Board of Nursing sent a Notice of Informal

Conference ("Notice") to Ms. Shumate notifying her that an informal conference would be held on February 15, 2012. The Notice was sent by certified and first class mail to 3525 Echo Valley Road, Barboursville, Virginia 22923, the address of record on file with the Board of Nursing.

3. During the course of her employment with University of Virginia Health System, Charlottesville, Virginia, from April, 2011, to June 11, 2011, by her own admission, Ms. Shumate diverted oxycodone (Schedule II), for her personal and unauthorized use and consumed the medications while on duty. Ms. Shumate accomplished the diversion by removing medication using patient names, documenting the medication as being administered, and keeping it for herself. On at least one occasion, Ms. Shumate substituted Tylenol for Percocet when the patient requested pain medication. Ms. Shumate's employment was terminated on June 30, 2011.

4. On June 30, 2011, Ms. Shumate entered a Participation Contract with the Health Practitioners' Monitoring Program ("HPMP"). She entered a Recovery Monitoring Contract on July 25, 2011. Ms. Shumate's case manager reported that she is in compliance with her contract.

5. Ms. Shumate's substance abuse history began at age 15. She reported that her triggers are negative feelings of self-worth. Her sobriety date is June 30, 2011. On July 7, 2011, Ms. Shumate completed the intensive outpatient treatment program and on August 9, 2011, she completed the step down program at Blue Ridge First Step, Inc., Charlottesville, Virginia. Ms. Shumate currently attends aftercare group meetings once a week, four to five Alcoholics Anonymous meetings a week, and weekly individual and joint counseling sessions with her husband. She also meets with her sponsor weekly. All urine drug screens have been negative. Ms. Shumate submitted letters from her sponsor, aftercare facilitator, psychologist and aftercare group leader, all with positive comments on her recovery.

6. As of the date of the informal conference, Ms. Shumate was not employed.

CONCLUSIONS OF LAW

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(2), (5), (6) and (8) of the Code and 18 VAC 90-20-300(A)(2)(c), (e) and (f) of the Regulations Governing the Practice of Nursing.

2. Findings of Fact Nos. 4 and 5 constitute a violation of § 54.1-3007(6) of the Code.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. Kathleen E. Shumate, R.N., is hereby REPRIMANDED.

2. License No. 0001-106595 of Kathleen E. Shumate, R.N., is INDEFINITELY SUSPENDED.

3. The license will be recorded as suspended and no longer current.

4. At such time as Ms. Shumate shall petition the Board for reinstatement of her license, an administrative proceeding will be convened to determine whether she is capable of resuming the safe and competent practice of professional nursing. Ms. Shumate shall be responsible for any fees that may be required for the reinstatement and renewal of the license prior to issuance of the license to resume practice.

5. This suspension applies to any multistate privilege to practice professional nursing in the Commonwealth of Virginia.

6. This suspension shall be STAYED upon her continued compliance with the HPMP for the period specified by the HPMP. At such time, the indefinite suspension shall be STAYED and the following terms and conditions shall apply:

a. Ms. Shumate shall comply with all terms and conditions for the period specified by the HPMP.

b. Any violation of the terms and conditions stated in this Order shall be reason for

summarily rescinding the stay of indefinite suspension of the license of Kathleen E. Shumate, R.N., and an administrative proceeding shall be held to determine whether her license shall be revoked. The stay of indefinite suspension may be summarily rescinded at such time the Board is notified that:

- i. Ms. Shumate is not in compliance with the terms and conditions specified by the HPMP;
- ii. Ms. Shumate's participation in the HPMP has been terminated;
- iii. There is a pending investigation or unresolved allegation against her involving a violation of law, regulation, or any term or condition of this order.

7. Upon receipt of evidence of Ms. Shumate's participation and successful completion of the HPMP, the Board, at its discretion, may waive Ms. Shumate's appearance before a Committee and conduct an administrative review of this matter, at which time she may be issued an unrestricted license.

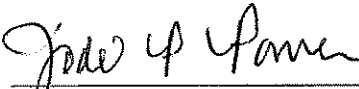
8. This Order is applicable to Ms. Shumate's multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. For the duration of this Order, Ms. Shumate shall not work outside of the Commonwealth of Virginia pursuant to a multistate licensure privilege without 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.

9. Ms. Shumate 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 § 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 a public record, and shall be made available for public inspection and copying upon request.

Pursuant to Section 54.1-2400(10) of the Code, Ms. Shumate may, not later than 5:00 p.m., on **July 1, 2012**, notify 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, in writing that she desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

FOR THE BOARD:


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

ENTERED: May 29, 2012

This Order shall become final on **July 1, 2012**, unless a request for a formal administrative hearing is received as described above.