

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: KATHLEEN EMERSON SHUMATE, R.N.

ORDER FOR REINSTATEMENT AND PROBATION

Pursuant to § 9-6.14.11 and § 54.1-110 of the Code of Virginia (1950), as amended, a Special Conference Committee of the Board of Nursing (the "Board") met on December 8, 1994, in Henrico County, Virginia, to receive and act upon evidence regarding the petition of Kathleen Emerson Shumate for reinstatement of her license to practice professional nursing in the Commonwealth of Virginia, which was Indefinitely Suspended by a Consent Order of the Board entered on September 13, 1993. Ms. Shumate was present and was not represented by counsel.

Upon consideration of the evidence presented, the Committee adopted the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Kathleen Emerson Shumate previously held License No. 0001-106595 to practice professional nursing, which was issued by the Board.
2. By Consent Order entered September 13, 1993, the Board accepted the voluntary surrender of Ms. Shumate's license to practice professional nursing in the Commonwealth of Virginia, and indefinitely suspended her license, based on her diversion and unauthorized use of Percocet from an automated PYXIS medication dispensing system.
3. Ms. Shumate reports her date of sobriety as November 28, 1993, although she acknowledges receipt of prescribed narcotics in

January 1994, during the course of a dental procedure and subsequent complications. As a result of this incident, Ms. Shumate made her health care providers aware of her addiction.

4. Ms. Shumate reports she currently attends Alcoholics Anonymous ("AA") recovery group meetings three (3) to four (4) times a week, Caduceus meetings on a weekly basis, and other recovery group meetings weekly through Virginia Impaired Professional Service. Ms. Shumate has had an Alcoholics Anonymous sponsor since December, 1993.
5. By letters and testimony the Board received favorable reports of Ms. Shumate's recovery, from her treating health care providers, friends, and her sponsor, supportive of her recovery progress and the reinstatement of her license:
 - a. By letter to the Board dated August 11, 1994, Ms. Shumate's substance abuse counselor, Hannah Lloyd, BGS, CSAC, CAC, reported she has treated Ms. Shumate since August, 1993, through Virginia Impaired Professional Service. She finds Ms. Shumate in compliance with her recovery plan, and advocates for the reinstatement of Ms. Shumate's license.
 - b. Since August 25, 1993, Ms. Shumate has attended weekly individual sessions with her counselor, Susan Karlson, LCSW. Ms. Karlson gives Ms. Shumate's recovery a highly favorable report.
 - c. By letter to the Board dated October 20, 1994, Ms. Shumate's clinical psychologist, Stephen T. Wegener, Ph.D., reported that between January 12, 1994, and June

8, 1994, he provided therapy to the Shumates. Dr. Wegener is supportive of Ms. Shumate's application for reinstatement of her license.

6. Between August 31, 1993, and the present, Ms. Shumate has had random, supervised urine drug screens through the University of Virginia ("UVA") Employee Health, which have been negative. She reports meeting regularly with Rebecca Mason, her UVA monitor.
7. As of November, 1994, Ms. Shumate has been employed as a hemodialysis technician at the University of Virginia, Charlottesville, Virginia, where she entered into a reentry contract on October 13, 1994.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Committee concludes that Kathleen Emerson Shumate has met the requirements of § 54.1-3009(C) of the Code and that she is competent to return to the practice of nursing with reasonable skill and safety to her patients, subject to certain restrictions as more fully set forth below.

ORDER

WHEREFORE, it is hereby ORDERED that the license of Kathleen Emerson Shumate to practice professional nursing in the Commonwealth of Virginia, be REINSTATED ON PROBATION with the following terms and conditions:

1. The period of probation shall begin on the date that this Order is final and shall end upon completion of eighteen (18) months of employment as a Registered Nurse.

2. All written reports required by this Order shall be sent to the Board office with the first report being received no later than forty-five (45) days following the date that this Order is entered. Subsequent reports must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends.
3. Ms. Shumate shall inform her nursing employer and each future nursing employer that the Board has placed her license on probation and shall provide her employer with a copy of this Order. If, at any time, Ms. Shumate is employed through a staffing agency, she shall inform her supervisor in each facility where assigned that her license is on probation.
4. Ms. Shumate shall practice nursing only in a structured, supervised employment setting satisfactory to the Board for the first twelve (12) months. This employment setting shall provide on-site supervision by a Medical Doctor or Registered Nurse who works the same shift and holds an unrestricted license. Before changing employment, Ms. Shumate shall have her prospective employer provide a written description of the structured, supervised employment setting to the Board office for approval.
5. Ms. Shumate shall inform the Board in writing within ten (10) days of the date she begins nursing practice again and shall provide the Board with the name and address of the employer. Ms. Shumate shall inform the Board in writing within ten (10) days of any change of employment or any interruption in nursing practice.

6. Ms. Shumate shall direct her nursing employer to provide a written nursing performance evaluation to the Board as stated in term number 2.
7. Ms. Shumate shall not administer any Schedule II through V Controlled Substances and Schedule VI controlled substances Stadol and Nubain (and any other medications designated by the Board), for the first six (6) months of employment as a Registered Nurse.
8. Ms. Shumate shall continue in treatment until discharged and will direct the therapist to provide the Board with a written progress report as stated in term number 2. The therapist shall provide a written discharge summary when appropriate. Ms. Shumate shall provide the therapist with a copy of this Order and authorize the therapist to communicate with the Board's representatives concerning her progress.
9. Ms. Shumate shall direct the therapist to notify the Board if she withdraws from the treatment program before being discharged.
10. Ms. Shumate shall be required to have supervised, unannounced drug screens and have all results sent to the Board as stated in term number 2. The Board shall be notified immediately in writing of any positive results or if she refuses to give a specimen for analysis as required by this Order.
11. Ms. Shumate shall continue to be active in Alcoholics Anonymous and Caduceus with written reports of attendance by a sponsor or contact person sent to the Board as stated in term number 2.

12. Ms. Shumate shall not use alcohol or any other mood altering chemical except as prescribed by a physician with whom she has established a genuine physician/patient relationship and for accepted medicinal or therapeutic purposes. Should she be prescribed any medication such as a narcotic, depressant, tranquilizer or stimulant, a written report from the prescribing physician shall be provided to the Board within ten (10) days of the date of the prescription.
13. Written reports shall be provided by Ms. Shumate which will include her current address and current employment, if any. These reports shall be sent to the Board office as stated in term number 2.
14. The Board shall issue a license marked PROBATION WITH TERMS upon receipt of the appropriate fee.
15. Ms. Shumate, as a Registered Nurse, shall conduct herself in agreement with the requirements of Title 54.1, Chapter 30 of the Code of Virginia (1950), as amended, and the Board of Nursing Regulations.

Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Kathleen Emerson Shumate, R.N., and a hearing shall be held to decide whether her license shall be revoked.

Any request for modification of this Order may be referred to a Special Conference Committee of the Board who shall have the full authority to make revisions or changes as it deems necessary.

The Board shall issue an unrestricted license to Ms. Shumate without a hearing at the completion of the probationary period

unless there is a pending investigation or unresolved allegation involving a violation of law, regulation or any term or condition of probation. In that event, the period of probation shall be continued indefinitely or until such time as the Board makes a case decision in accordance with the Administrative Process Act, § 9-6.14:1 et seq. of Code of Virginia (1950), as amended.

Pursuant to § 9-6.14:14 of the Code of Virginia (1950), as amended, 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.

If Ms. Shumate does not consent to the Committee's decision and desires a hearing before the Board or a panel thereof, she shall notify, in writing, Corinne F. Dorsey, R.N., Executive Director of the Board of Nursing, within thirty-three (33) days from the date of entry of this Order. This Order shall become final upon the expiration of the thirty-three day period unless a written request for a formal hearing is received within such time. Upon receiving timely request for a hearing, the Board or a panel thereof shall then proceed with a hearing provided in §9-6.14:12 of the Code of Virginia (1950), as amended.

FOR THE BOARD

Corinne F. Dorsey/nkd
Corinne F. Dorsey, R.N.
Executive Director

ENTERED: December 27, 1994

Received: Dec. 28, 1994

By: John W. Hasty
John W. Hasty, Director
Department of Health Professions

Certificate of Service

I hereby certify that a certified true copy of the Order was mailed on this day to Kathleen Emerson Shumate, R.N., at Route 1, Box 468, Barboursville, Virginia, 22923.

Corinne F. Dorsey, R.N.
Corinne F. Dorsey, R.N.
Executive Director

December 29, 1994
Date