

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE:        DAVID C. MATNEY, R.N.**  
**License No.: 0001-151943**

**CONSENT ORDER**

The Virginia Board of Nursing ("Board") and David C. Matney, R.N., as evidenced by his signature hereto, enter into the following Consent Order affecting Mr. Matney's license to practice professional nursing in Virginia.

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

**FINDINGS OF FACT**

1. David C. Matney, R.N., was issued License No. 0001-151943 to practice professional nursing by the Virginia Board of Nursing on January 23, 1997. Said license is set to expire on June 30, 2013. Mr. Matney holds License No. 118906 to practice professional nursing in Tennessee, which expired on June 30, 2005. He also holds License No. 123541 to practice professional nursing in Colorado, which expired on September 30, 2001. His primary state of residence is Virginia.
2. During the course of his employment with the U.V.A. Health System, Charlottesville, Virginia, from December, 2010, to May 18, 2011, Mr. Matney diverted morphine, fentanyl and hydromorphone, all Schedule II controlled substances, for his personal and unauthorized use and injected some of the drugs while on duty. Mr. Matney accomplished the diversion by withdrawing medications directly from patients' hanging fentanyl bags, and by diverting medications to be wasted and replacing the wasted medications with saline. On May 18, 2011, Mr. Matney resigned from his employment after being asked to submit to a fitness for duty drug test.

3. On May 29, 2011, Mr. Matney entered a Participation Contract with the Health Practitioners' Monitoring Program ("HPMP"). On June 6, 2011, he entered an intensive outpatient treatment program at Harrison House of Virginia. Mr. Matney successfully completed the program on June 30, 2011, and entered an aftercare program at Highlands Community Services Center for Behavioral Health. On July 11, 2011, Mr. Matney entered a Recovery Monitoring Contract with the HPMP.

4. On July 11, 2011, during an interview with an investigator from the Department of Health Professions, Mr. Matney reported a previous history of nitrous oxide addiction in 2000. He reported being clean for ten years prior to his relapse in December, 2010. He last used alcohol on May 26, 2011, and considers his date of sobriety to be May 27, 2011.

#### CONCLUSIONS OF LAW

Finding of Fact No. 2 constitutes a violation of § 54.1-3007(2), (5) and (6) of the Code of Virginia (1950), as amended ("Code"), and 18 VAC 90-20-300(A)(2)(c) of the Regulations Governing the Practice of Nursing.

#### CONSENT

David C. Matney, R.N., by affixing his signature hereon, agrees to the following:

1. He has been advised to seek advice of counsel prior to signing this document;
2. He acknowledges that without his consent, no legal action can be taken against him except pursuant to the Virginia Administrative Process Act, § 2.2-4000(A) *et seq.* of the Code;
3. He acknowledges that he 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 him;
4. He waives all such right to an informal conference;

5. He admits to the Findings of Fact and Conclusions of Law contained herein and waives his right to contest such Findings of Fact and Conclusions of Law in any subsequent proceeding before the Board;

6. He consents to the entry of the following Order affecting his 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 against David C. Matney, R.N., contingent upon his continued compliance with a Recovery Monitoring Contract with the HPMP for the period specified by the HPMP.

2. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of David C. Matney, R.N., and an administrative proceeding shall be held to decide whether his license should be revoked. Mr. Matney shall be noticed to appear before the Board at such time as the Board is notified that:

a. Mr. Matney is not in compliance with the terms and conditions of the HPMP, or has been terminated from participation in the HPMP;

b. There is a pending investigation or unresolved allegation against Mr. Matney involving a violation of law or regulation or any term or condition of this Order; or

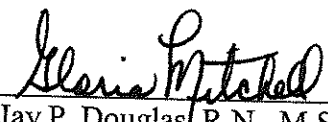
c. Mr. Matney has successfully completed the above-referenced period of participation in the HPMP. However, upon receipt of Mr. Matney's participation in and compliance with the HPMP, the Board, at its discretion, may waive Mr. Matney's appearance before the Board and conduct an administrative review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

3. This Order is applicable to Mr. Matney's multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia. For the duration of this Order, Mr. Matney 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 he wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

4. Mr. Matney shall maintain a course of conduct in his 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

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

ENTERED: March 15, 2012

SEEN AND AGREED TO:

*David C. Matney*  
David C. Matney, R.N.

COMMONWEALTH OF VIRGINIA,  
COUNTY/CITY OF Wise Co., TO WIT: *Tammie Hale*

Subscribed and sworn to before me, ~~David M~~, a Notary Public, this 6<sup>th</sup> day of March, 2012.

My commission expires Nov 30, 2015.

Registration Number 7507359.

*Tammie Hale*  
NOTARY PUBLIC

*verifying signature only*

