VIRGINIA:

BEFORE THE COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE

IN RE: **SHARON S. JESSEE, R.N., L.N.P.**
License Nos.: TN R.N.: 122285 with Multistate Privilege
L.N.P.: 0024-170123
Prescriptive Authority: 0017-140532

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 Committee of the Joint Boards of Nursing and Medicine ("Committee of the Join Boards") on March 1, 2016 in Henrico County, Virginia. Sharon S. Jessee, R.N., L.N.P. was present and was not represented by legal counsel. Allison Gregory, R.N., M.S., F.N.P.-B.C., serving as Agency Subordinate for the Committee of the Joint Boards, submitted a Recommended Decision for consideration.

On June 8, 2016, a quorum of the Committee of the Joint Boards met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Jessee was not present nor was she represented by legal counsel.

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

FINDINGS OF FACT

1. Sharon S. Jessee, R.N., L.N.P. holds Tennessee License No. 122285 to practice professional nursing, which is scheduled to expire on October 31, 2016. By virtue of the Nurse Licensure Compact, she holds a privilege to practice professional nursing in Virginia. She was issued License No. 0024-170123 to practice as a nurse practitioner in the specialty area of family practice and

License No. 0017-140532 for prescriptive authority by the Virginia Committee of the Joint Boards of Nursing and Medicine on June 12, 2012 and June 25, 2012, respectively. These licenses are scheduled to expire on October 31, 2016. She also holds a license to practice as a nurse practitioner in Tennessee. Her primary state of residence is Tennessee.

2. By letter dated February 5, 2016, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Jessee notifying her that an informal conference would be held on March 1, 2016. The Notice was sent by certified and first class mail to 637 Mallard Baye, Rutledge, Tennessee 37861, the address of record on file with the Board of Nursing.

3. During the course of her employment as a nurse practitioner with Community Medical Care, Castlewood, Virginia, Ms. Jessee engaged in a pattern of indiscriminate prescribing of narcotics, benzodiazepines, sedative-hypnotics, and muscle relaxants, along with antidepressants, as evidenced by the following:

a. In her care of Patient A, a female in her mid-50's diagnosed with low back pain, lumbar spondylosis with myelopathy, and generalized osteoarthritis, cervical disc degeneration, migraines, and anxiety with depression (among other things), from approximately October 2012 through August 2014:

i. Beginning on or about October 18, 2012, when Ms. Jessee took over the patient's care from another provider in the practice, she prescribed controlled substances for the treatment of her pain and anxiety with depression, including narcotics, benzodiazepines, sedative-hypnotics, and muscle relaxants, without attempting to treat the patient with non-narcotic modalities. In addition, despite the fact that on or about September 20, 2012, Patient A's urine toxicology was negative for her prescribed benzodiazepines, and the previous provider who had treated Patient A wrote "no more benzos," she continued to prescribe Patient A benzodiazepines throughout her treatment.

ii. On April 16, 2014, Patient A requested that her prescription for MS Contin 30mg (C-II) be changed to Norco 10mg/325mg (C-III) because the MS Contin was "not working," yet Ms. Jessee continued to prescribe Patient A both medications for the months of April, May, and June, 2014.

iii. Despite the fact that Patient A's condition did not improve under her care, Ms. Jessee continued to prescribe narcotics, benzodiazepines, sedative-hypnotics, and muscle relaxants. She did not refer the patient to an orthopedist until approximately March 2013 and November 2013. She did not refer the patient to a rheumatologist until approximately May 2014. There is no indication in the records that she consulted with Patient A regarding the possibility that continued use of narcotics could make her pain worse.

iv. Despite requiring Patient A to sign a controlled medication policy on December 20, 2013, there is no indication in the record that Ms. Jessee conducted pill counts at each visit. She required Patient A to submit to only one urine toxicology screen, on August 28, 2014. She only reviewed Patient A's Prescription Monitoring Report ("PMP") once, on December 11, 2012 for the period of December 10, 2011 through December 10, 2012.

b. In her care of Patient B, a male in his early 40's diagnosed with low back pain, lumbar disc herniation, cervicalgia, and anxiety with depression (among other things), from approximately June 2013 through July 2014:

i. From June 2013 until May 2014, despite the fact that Patient B's condition did not improve under her care, Ms. Jessee continued to prescribe Roxicodone (oxycodone hydrochloride, C-II) and Klonopin (clonazepam, C-IV), without any further referrals to specialists or any indication that she consulted with Patient B regarding the possibility that continued use of narcotics could make his pain worse. Further, on November 1, 2013, she increased Patient B's dosage of Roxicodone from 15mg every

4-6 hours to 30mg every 6 hours without explanation. On December 30, 2013, she added a prescription for Opana ER (oxymorphone hydrochloride, C-II) 30mg every 12 hours in addition to existing prescription medications without explanation.

ii. Despite requiring Patient B to sign a controlled medications policy in March 2014, there is no indication in the record that Ms. Jessee conducted pill counts at each visit, required Patient B to submit to any random urine toxicology screens, or reviewed the patient's Prescription Monitoring Report to determine whether he was taking his medications as prescribed by her or whether he was being prescribed controlled medications by other providers.

iii. On or about June 19, 2014, Ms. Jessee stopped seeing Patient B on a monthly basis for medication management and stopped prescribing Patient B controlled substances without tapering Patient B off of any existing medication and without offering any alternative treatment plans. She did not refer Patient B to another provider for medication management until she sent a referral letter to a pain management provider on or about August 13, 2014.

c. In her care of Patient C, a female in her late 40's diagnosed with low back pain and anxiety with depression (among other things), from approximately February 2013 through March 2014:

i. Beginning on February 22, 2013, when she took over the patient's care from another provider in the practice, she prescribed controlled substances for the treatment of her pain and anxiety with depression, including narcotics, benzodiazepines, sedative-hypnotics, and muscle relaxants, without attempting to treat the patient with non-narcotic modalities and despite the fact that Patient C cancelled an appointment with her previous provider on September 20, 2012 and was a no-show on October 4, 2012.

ii. Despite the fact that Patient C's condition did not improve under her care, Ms. Jessee continued to prescribe narcotics, benzodiazepines, sedative-hypnotics, and muscle relaxants,

without any further referrals to specialists regarding Patient C's chronic low back pain or any indication that she consulted with Patient C regarding the possibility that continued use of narcotics could make her pain worse.

iii. Despite requiring Patient C to sign a controlled medications policy in February 2013 and again in February 2014, there is no indication in the record that Ms. Jessee conducted pill counts at each visit, required Patient C to submit to random urine toxicology screens, or reviewed the patient's Prescription Monitoring Report to determine whether she was taking her medications as prescribed or whether she was being prescribed controlled medications by other providers.

iv. Ms. Jessee told an investigator for the Department of Health Professions that after Patient C received inpatient treatment at Russell County Medical Center, Lebanon, Virginia, for a probable overdose from March 17 through 18, 2014, she did not prescribe her any further controlled medication. There is no indication in Patient C's record that Ms. Jessee tapered her off her existing controlled medications or offered any alternative treatment plans.

d. In her care of Patient D, a female in her early 40's diagnosed with low back pain, unspecified arthropathy, disc disorder, sciatica, cervicalgia, lumbosacral radiculopathy, and anxiety with depression (among other things), from approximately September 2013 through June 2014:

i. Beginning on September 11, 2013, when she took over the patient's care from another provider in the practice, Ms. Jessee prescribed controlled substances for the treatment of her pain and anxiety with depression, including narcotics, benzodiazepines, sedative-hypnotics, and muscle relaxants, without attempting to treat the patient with non-narcotic modalities and despite the following indicia of substance misuse or abuse being noted in her record: Under a previous provider, between approximately March and May 2013, Patient D was a no-show for three appointments. On or about May 29, 2013, Patient D's urine toxicology screen had tested positive for Soma (carisoprodol, C-IV), which

she was not prescribed, but Ms. Jessee continued to treat Patient D and prescribe her medications after this incident. On or about June 24, 2014, Patient D's urine toxicology screen was positive for oxymorphone (C-II), which Ms. Jessee did not prescribe.

ii. Following the failed urine toxicology screen on or about June 24, 2014, Ms. Jessee noted "no more controlled medications" for Patient D on August 27, 2014 without tapering Patient D off of any existing prescription medications or offering any alternative treatment plans.

iii. Despite the fact that Patient D's condition did not improve under her care, Ms. Jessee continued to prescribe narcotics, benzodiazepines, sedative-hypnotics, muscle relaxants, and Neurontin, without any further referrals to specialists or any indication that she consulted with Patient D regarding the possibility that continued use of narcotics could make her pain worse.

iv. Despite requiring Patient D to sign a controlled medications policy in November 2013, there is no indication in the record that Ms. Jessee conducted pill counts at each visit, required Patient D to submit to urine toxicology screens until June 2014, or reviewed the patient's Prescription Monitoring Report to determine whether she was taking her medications as prescribed or whether she was being prescribed controlled medications by other providers.

e. In her care of Patient E, a male in his late 60's diagnosed with degenerative disc disease, low back pain, insomnia, and anxiety with depression (among other things), from July 2012 through August 2014:

i. Beginning on July 20, 2012, when she took over the patient's care from another provider in the practice, Ms. Jessee prescribed controlled substances for the treatment of his pain and anxiety with depression, including narcotics, benzodiazepines, sedative-hypnotics, and muscle relaxants, without attempting to treat the patient with non-narcotic modalities.

ii. Ms. Jessee continued to prescribe controlled medications after July 15, 2014, when Patient E's urine toxicology screen tested positive for tramadol, which she did not prescribe him, and negative for diclofenac and ketoprofen, which she did prescribe him.

iii. On January 2, 2014, when Patient E missed an appointment due to weather, Ms. Jessee ordered medications for controlled substances for Patient E, including a new prescription for MS Contin (morphine sulfate, C-II) without evaluating Patient E in person.

iv. Despite the fact that Patient E's condition did not improve under her care, and in fact, worsened, Ms. Jessee continued to prescribe narcotics, benzodiazepines, and sedative-hypnotics, without any further referrals to specialists or any indication that she consulted with Patient E regarding the possibility that continued use of narcotics could make his pain worse.

v. Despite requiring Patient E to sign a controlled medications policy in May 2013 and July 2014, there is no indication in the record that Ms. Jessee conducted pill counts at each visit, or required Patient E to submit to more than one urine toxicology screen (in July 2014) or regularly reviewed the patient's Prescription Monitoring Report to determine whether he was taking his medications as prescribed or whether he was being prescribed controlled medications by other providers.

4. At the informal conference, Ms. Jessee stated that she had received no instruction in her nurse practitioner program regarding the management of chronic pain. When she began working as a nurse practitioner at Community Medical Care, she took some patients over from a physician who had left the practice. This physician had been prescribing narcotics, benzodiazepines, anxiolytics, and sedative/hypnotics to these patients for years. She believed that she needed to keep prescribing what the patients were already taking. She also believed that if she stopped prescribing, the patients would stop coming to the practice, and the physician who owned the practice would be upset at the loss of patient volume. She was required to see 20 or more patients per day and was too busy to review patients' charts

or to document visits thoroughly. She said that she had no control over the patients that she saw, though she acknowledged that she did have control over the medications she prescribed.

5. Ms. Jessee stated that even though she asked the supervising physician for written guidance, the practice had no controlled medication policy until June of 2014. She also said that she was not aware of the Prescription Monitoring Program until she had been practicing for approximately six months. She stated that office staff did check patients' prescription monitoring reports, but there is no indication in the patients' records that she reviewed these reports. She also stated that staff checked local news outlets and court records weekly to determine whether patients had been arrested for drug-related crimes. If patients got in trouble, the practice was to call them in to the office for a urine toxicology screen and a pill count. If there was a problem, the practice was to stop prescribing controlled medications without tapering them off. Further, she stated that it was clerical staff's responsibility to ensure that patients signed a new controlled medication agreement every year although she also stated that the signed controlled medication agreement served as her documentation that she reviewed the potential risks of long-term narcotic medication.

6. Ms. Jessee said that she was under the impression that the supervising physician was reviewing her patient charts, and that since the physician never had any questions or concerns about her charts that her prescribing habits were acceptable. The physician did confirm to an investigator for the Department of Health Professions that even though her electronic signature was on all patient charts, this did not mean that she had actually reviewed the charts.

7. Since September 2015, Ms. Jessee has been employed with Dr. Michael Chavin, an anesthesiologist who practices pain management in Tennessee. She said that this practice tries many more non-narcotic modalities before prescribing pain medication. Further, this practice requires patients who receive narcotics to go through toxicology screens and pill counts at each visit and that her supervising

physician keeps closer track of her patients than her former supervisor did. She stated that she has not taken any continuing education courses regarding the prescribing of narcotic pain medications. However, she has changed her practice in that she prescribes pain medication much more minimally and increases patients' doses more slowly. She stated that Dr. Chavin is aware of this matter before the Board.

CONCLUSIONS OF LAW

Finding of Fact No. 3 constitutes a violation of §§ 54.1-2915(A)(3), (13), (17), and (18), 54.1-3007(2), (5), and (8), 54.1-3303(A), and 54.1-3408(A) of the Code, 18 VAC 90-20-300(A)(2)(b) and (f) of the Regulations Governing the Practice of Nursing, and 18 VAC 90-30-220(4) of the Regulations Governing the Licensure of Nurse Practitioners (*effective through May 7, 2013*) and the Emergency Regulations Governing the Licensure of Nurse Practitioners (*effective May 8, 2013 through November 6, 2014*).

ORDER

WHEREFORE, it is hereby ORDERED that Sharon S. Jessee, L.N.P., is placed on PROBATION for not less than one year of actual nurse practitioner practice, to include prescriptive authority, subject to the following terms and conditions:

1. The period of probation shall begin on the date that this Order is entered and shall end at such time as Ms. Jessee has completed 12 months of active practice in employment as a licensed nurse practitioner ("practice employment"). The nurse practitioner license of Ms. Jessee shall be reinstated without restriction at the completion of the probationary period without an administrative proceeding 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 Committee of the Joint Boards makes a case decision in

accordance with the Administrative Process Act, § 2.2-4000 et seq. and § 54.1-2400.9 et seq. of the Code.

2. Written reports are required by this Order and, unless otherwise specified, shall be sent to Compliance at the Board of Nursing offices with the first reports received in the Board of Nursing office no later than 60 days from the date 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. Many of the required report forms are available on the Board of Nursing's website for your convenience.

3. Performance Evaluations shall be provided to the Committee of the Joint Boards, at the direction of Ms. Jessee, by all practice employer(s), using the forms provided by Compliance and available on the Board of Nursing's website.

4. Ms. Jessee shall provide evidence, within 60 days of the entry of this Order, of the following:

a. That she has read and understands Board of Medicine Guidance Document 85-24, *Guidance on the Use of Opioid Analgesics in the Treatment of Chronic Pain.*

b. That she has completed a course acceptable to the Committee of the Joint Boards regarding professional accountability and legal liability for nurse practitioners.

c. That she has completed a course acceptable to the Committee of the Joint Boards regarding safe prescribing of narcotics which is consistent with the ER/LA Opioid Analgesic REMS education requirements issued by the US Food & Drug Administration.

5. Ms. Jessee shall submit "Self-Reports" which include a current address, telephone number, and verification of any and all current practice employment. These reports shall also include

any changes in practice employment status. Self-Reports must be submitted whether Ms. Jessee has current practice employment or not.

6. Ms. Jessee shall inform the Committee of the Joint Boards in writing within ten days of the date any practice employment begins, changes, is interrupted, or ends. Additionally, Ms. Jessee shall provide a contact name, address, and phone number for each practice employer to the Committee of the Joint Boards.

7. Ms. Jessee shall inform all current and future practice employers that the Committee of the Joint Boards has placed her on probation and shall provide each practice employer with a complete copy of this Order. If Ms. Jessee is employed through a staffing agency, she shall inform her supervisor in each facility where assigned that she is on probation.

8. 8. Ms. Jessee shall return all copies of her license to practice as a nurse practitioner and her prescriptive authority license to the Board of Nursing office within ten days of the date of entry of this Order, along with payment of a duplicate license fees as specified in the regulations governing nurse practitioners and prescriptive authority for nurse practitioners. Upon receipt, the Board of Nursing shall issue replacement licenses marked "Probation with Terms."

9. The Committee of the Joint Boards shall review Ms. Jessee's Tennessee and Virginia Prescription Monitoring Program profiles quarterly and shall evaluate the profile for appropriate prescribing of controlled substances. Ms. Jessee shall provide the Committee of the Joint Boards with any requested patient documentation in furtherance of such review.

10. Ms. Jessee shall conduct herself as a licensed nurse practitioner in compliance with the requirements of Title 54.1, Chapters 29 and 30 of the Code and the Committee of the Joint Boards' Regulations.

11. Any violation of the stated terms and conditions contained in this Order, or failure to comply with all terms of this Order within five years of the date of entry of the Order, shall be reason for suspending or revoking the license of Ms. Jessee, and an administrative proceeding may be held to determine whether her license shall be suspended or revoked.

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. Jessee may, not later than 5:00 p.m., on July 31, 2016, notify Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing that she desires a formal administrative hearing before the Committee of the Joint Boards. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

FOR THE COMMITTEE OF THE JOINT BOARDS:

for Gloria Mitchell-Lively
Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E.
Executive Director
Virginia Board of Nursing

ENTERED: June 28, 2016

This Order shall become final on July 31, 2016, unless a request for a formal administrative hearing is received as described above.

Certified True Copy
By _____
Virginia Board of Nursing