

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: ALISHA SMITH, L.P.N. REINSTATEMENT APPLICANT
License No.: 0002-077736

ORDER

Pursuant to §§ 2.2-4019, 2.2-4021, and 54.1-2400(10) of the Code of Virginia (1950), as amended (“Code”), a Special Conference Committee (“Committee”) of the Virginia Board of Nursing (“Board”) met on October 2, 2012, in Henrico County, Virginia, to receive and act upon Alisha Smith’s application for reinstatement of her license to practice practical nursing in Virginia and to inquire into evidence that Ms. Smith may have violated certain laws and regulations governing practical nursing. Ms. Smith was present and was not represented by counsel.

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

FINDINGS OF FACT

1. Alisha Smith was issued License No. 0002-077736 to practice practical nursing in the Commonwealth of Virginia on March 10, 2008. Said license was suspended by Order of the Board entered on June 3, 2011. Her primary state of residence is Virginia.
2. By letter dated September 5, 2012, the Board of Nursing sent a Notice of Informal Conference (“Notice”) to Ms. Smith notifying her that an informal conference would be held on October 2, 2012. The Notice was sent by certified and first class mail to 101 Fourth Avenue, P.O. Box 441, Clifton Forge, Virginia, 24422, the address of record on file with the Board of Nursing.
3. Ms. Smith submitted an application for reinstatement of her license to practice practical nursing, which was received by the Board on June 4, 2012.

4. By letter dated February 21, 2012, Ms. Smith's psychiatrist stated that on January 24, 2011, Ms. Smith was diagnosed with Bipolar Manic Depressive Disorder, Type II, Depressive Phase, without active psychotic features, and she continues to require treatment and medication for this condition.

5. On Ms. Smith's application for reinstatement of license as a licensed practical nurse following suspension or revocation received by the Board on June 4, 2012, she answered "No" to the question "Do you have a mental, physical or chemical dependency condition which could interfere with your current ability to practice nursing?" when, in fact, she suffers from a mental illness which could interfere with her ability to practice practical nursing as evidenced in Finding of Fact No. 4. At the informal conference Ms. Smith stated that she answered "No" because she believes that she has her mental illness under control, and she is currently safe to practice.

6. Ms. Smith signed a Participation Contract with the Health Practitioners' Monitoring Program ("HPMP") on September 17, 2012, in which she acknowledged her history of mental illness. She is currently compliant with the terms of her HPMP contract.

7. By letter dated June 21, 2012, Ms. Smith's current employer stated that Ms. Smith is a "great asset" to the company. Ms. Smith stated that after she entered HPMP, she was ordered to no longer take Ativan, and she has weaned herself off the medication. In the February 21, 2012, letter, Ms. Smith's psychiatrist stated that at this stage in her treatment, he supports her as a reliable patient and so long as she remains compliant with her treatment plan, he does "not see any problem in trusting her judgment or capacity from her nursing skills ability."

CONCLUSIONS OF LAW

1. Finding of Fact No. 4 constitutes a violation of § 54.1-3007(6) of the Code.
2. Finding of Fact No. 5 constitutes a violation of § 54.1-3007(1) of the Code and 18 VAC 90-20-300(A)(1)(b) of the Regulations Governing the Practice of Nursing ("Regulations").

3. Based on the above Findings of Fact, the Committee concludes that Ms. Smith is properly enrolled in the HPMP.

4. The Board concludes that Ms. Smith has demonstrated satisfactory evidence that she is prepared to resume practice in a safe and competent manner.

ORDER

On the basis of the foregoing, the Committee hereby ORDERS as follows:

1. License No. 0002-077736 of Alisha Smith, L.P.N., to practice practical nursing is hereby REINSTATED contingent upon her continued compliance with the terms and conditions of the HPMP for the time period specified by the HPMP.

2. This order shall be applicable to Ms. Smith's multistate licensure privilege, if any, to practice practical nursing in the Commonwealth of Virginia. For the duration of this Order, Ms. Smith shall not work outside 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. Smith wishes to work. Any request for out of state employment shall be directed, in writing, to the Executive Director of the Board.

3. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Ms. Smith, and an administrative proceeding shall be held to decide whether her license should be revoked. Ms. Smith shall be noticed to appear before the Board at such time as the Board is notified that:

a. Ms. Smith 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 Ms. Smith involving a violation of law or regulation or any term or condition of this Order; or


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

4. Ms. Smith shall maintain a course of conduct in her capacity as a practical 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 on request.


Pursuant to Section 54.1-2400(10) of the Code, Ms. Smith may, not later than 5:00 p.m., on **November 26, 2012**, notify Jay P. Douglas, 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 COMMITTEE:


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

ENTERED: October 22, 2012

This Order shall become final on **November 26, 2012**, unless a request for a formal administrative hearing is received as described above.

Certified Copy
By 
Virginia Board of Nursing