

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: MELISSA R. SMILEY, R.N.
 License No.: 0001-225308**

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 April 8, 2015 in Henrico County, Virginia. Melissa R. Smiley, R.N. was not present nor was she 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 20, 2015, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Smiley was not present nor was she 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. Melissa R. Smiley, R.N. was issued License No. 0001-225308 to practice professional nursing in Virginia on June 8, 2010. The license is scheduled to expire on October 31, 2015. Her primary state of residence is Virginia.

2. By letter dated March 9, 2015, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Smiley notifying her that an informal conference would be held on April 8, 2015. The Notice was sent by certified and first class mail to 9807 Kendrick Road, Chesterfield, Virginia 23236, the address of record on file with the Board of Nursing. According to the United States Postal Service website, the Notice sent by certified mail was delivered on March 19, 2015. The Notice sent by first class mail was not returned to the Board office. The Agency Subordinate concluded that adequate notice was

provided to Ms. Smiley and the informal conference proceeded in her absence.

3. By Order of the Board entered February 25, 2014 (“Board’s Order”), the Board took no action against Ms. Smiley contingent upon her entry into and compliance with the Health Practitioners’ Monitoring Program (“HPMP”). This Order was based on findings that Ms. Smiley was unsafe to practice professional nursing due to impairment in the workplace.

4. Ms. Smiley entered into a Participation Contract with the HPMP on April 15, 2014. She did not enter into a Recovery Monitoring Contract.

5. Ms. Smiley was dismissed from the HPMP on September 19, 2014 for noncompliance. Specifically, she failed to enter and complete treatment as recommended. Further, a Prescription Monitoring Report obtained by the HPMP in June 2014 revealed that Ms. Smiley continued to obtain prescriptions for narcotics and benzodiazepines after signing her Participation Contract. However, Ms. Smiley failed to sign a release of information so that the HPMP could verify her current treatment or prescribed medications.

6. Ms. Smiley did not respond to contact attempts by an investigator for the Department of Health Professions.

CONCLUSIONS OF LAW

Finding of Fact #5 constitutes a violation of Term No. 1 of the Board’s Order and § 54.1-3007(6) of the Code.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. Melissa R. Smiley, R.N. is hereby REPRIMANDED.
2. License No. 0001-225308 issued to Melissa R. Smiley, R.N. to practice professional nursing in the Commonwealth of Virginia is hereby SUSPENDED.

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

4. At such time as Ms. Smiley 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 nursing. Ms. Smiley 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.

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.

Since Ms. Smiley failed to appear at the informal conference, this Order shall be considered final. Ms. Smiley has the right to appeal this Order directly to the appropriate Virginia circuit court. As provided by Rule 2A:2 of the Supreme Court of Virginia, Ms. Smiley has thirty (30) days from the date of service (the date she actually received this decision or the date it was mailed to her, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E., Executive Director, Board of Nursing, at Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233. In the event that this decision is served by mail, three (3) days are added to that period.

FOR THE BOARD

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

Entered: *May 29TH 2015*

Certified True Copy

By *S. Smith*
Virginia Board Of Nursing