

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

**ELLEN A. SMITH, R.N.
License No.: 0001-085254**

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 November 8, 2012, in Henrico County, Virginia. Ellen A. Smith, R.N., was present and was not represented by legal counsel. Jane Elliott, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On January 30, 2013, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Smith 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. Ellen A. Smith, R.N., was issued License No. 0001-085254 to practice professional nursing in Virginia on July 12, 1982. The license is scheduled to expire on July 31, 2013. Her primary state of residence is Virginia. By Order of the Board entered February 3, 2011, the Board made findings that Ms. Smith was impaired while on duty and had a history of alcohol abuse. The Board took no action against Ms. Smith contingent upon her complying with all terms and conditions of the Health Practitioners' Monitoring Program ("HPMP"), which she had entered on March 29, 2010.

2. By letter dated October 15, 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 November 8, 2012. The Notice was sent by certified and first class mail to 7929 Forest Path Way,

Springfield, Virginia 22153, the address of record on file with the Board of Nursing.

3. On March 29, 2012, Ms. Smith submitted a urine drug screen that was deemed invalid due to a creatinine level of 1.0108. Subsequently, on April 20, 2012, she was dismissed from the HPMP for failing to comply with the urine screening program. According to the HPMP dismissal report dated April 2, 2012, Ms. Smith did not have any other instances of non-compliance.

4. Ms. Smith has been employed at Inova Fairfax Hospital for 30 years. She is required to submit to random drug screens once a month. Ms. Smith submitted to an alcohol and drug blood test on March 28, 2012; both tests were negative.

5. Prior to her dismissal from the HPMP, Ms. Smith was required to have four drug screens per month. She had two drug screens for the HPMP; one for the Inova Comprehensive Addiction Treatment Services (CATS); and one for Inova Fairfax Hospital. All drug screens have been negative except for the one on March 29, 2012. Ms. Smith reported that she still submits to random drug screens twice a month.

6. Ms. Smith has been receiving monthly Vivitrol (naltrexone) injections since March 2010. She currently attends Alcoholics Anonymous meetings five times a week and has a sponsor, and she also sponsors three individuals. She is willing to re-enter the HPMP.

CONCLUSIONS OF LAW

Finding of Fact No. 3 constitutes a violation of § 54.1-3007(6) of the Code and Term No. 2 of the Board Order entered February 3, 2011.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. Ellen A. Smith, R.N., is hereby REPRIMANDED.
2. The Board shall TAKE NO FURTHER ACTION contingent upon Ms. Smith re-entering

the HPMP. Ms. Smith shall have proof of entry into the HPMP provided to the Board within 30 days of the date this Order is entered. Thereafter, Ms. Smith shall comply with all terms and conditions for the period specified by the HPMP.

3. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Ellen A. Smith, R.N., 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 has failed to make application to the HPMP;

b. Ms. Smith is not in compliance with the terms and conditions of the HPMP, or has been terminated from participation in the HPMP;

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

d. 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. This Order is applicable to Ms. Smith's multistate licensure privileges, if any, to practice professional nursing. For the duration of this Order, Ms. Smith may 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 she wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

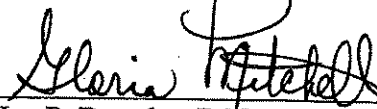
5. Ms. Smith shall maintain a course of conduct in her capacity as a professional nurse

commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Regulations Governing the Practice of 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.

Pursuant to Section 54.1-2400(10) of the Code, Ms. Smith may, not later than 5:00 p.m., on March 20, 2013, notify Jay P. Douglas, R.N., M.S.M., C.S.A.C., 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.

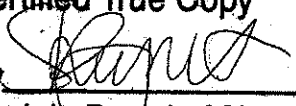
FOR THE BOARD:



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

ENTERED: February 15, 2013

This Order shall become final on March 20, 2013 unless a request for a formal administrative hearing is received as described above.

Certified True Copy
By 

Virginia Board of Nursing