

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE:**

**ELLEN A. SMITH, R.N.**

**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 October 21, 2010, 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 26, 2011, 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 as a professional nurse in Virginia on July 12, 1982. The license is current is scheduled to expire on July 31, 2011. Her primary state of residence is Virginia.
2. By letter dated September, 27, 2010, 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 21, 2010. The Notice was sent by certified and first class mail to 7929 Forest Path Way, Springfield, Virginia 22153-2606, the address of record on file with the Board of Nursing.
3. On February 25, 2010, during the course of her employment with Inova Alexandria

Hospital, Alexandria, Virginia, Ms. Smith presented for her assigned shift, and it was noted that she smelled of alcohol. She submitted to a for-cause drug screen, which revealed a blood alcohol level of 0.14 mg/dL. At the informal conference, Ms. Smith acknowledged that she had several drinks the night before reporting to work. Ms. Smith's employment was not terminated as a result of this incident, and she is currently out on leave on short-term disability related to her substance abuse.

4. By her own admission, Ms. Smith has a history of alcohol abuse, as she indicated to a counselor at Inova Comprehensive Treatment Services, Alexandria, Virginia, and to an investigator with the Virginia Department of Health Professions in March, 2010. Ms. Smith indicated that she successfully participated in the Health Practitioners' Monitoring Program ("HPMP") from 2001 to 2006, and was sober for nine years prior to her relapse in February, 2010, and June, 2010, in conjunction with her mother's illness. Ms. Smith reentered HPMP in March, 2010, and reported her sobriety date as June 27, 2010. She stated that she completed a 28-day inpatient treatment program on August 19, 2010, that she recently completed a 10-week intensive outpatient program, and that she is still currently participating in additional outpatient treatment. Ms. Smith stated that through her treatment, she has made plans to recognize and appropriately respond to her triggers to prevent relapse. She further indicated that she attends AA meeting six days a week and sees an addiction specialist weekly. She cited her husband of 35 years as her main support, and also reported that she has both a primary sponsor and a secondary sponsor with whom she is actively working the 12-step program.

5. An HPMP compliance report dated October 19, 2010, indicated that Ms. Smith signed a participation contract on March 29, 2010, and a recovery monitoring contract on May 17, 2010. The report indicated that Ms. Smith was currently compliant with the requirements of her recovery monitoring contract, and that all of her random urine drug screens had been negative since she completed residential treatment in August, 2010.

6. Ms. Smith's current medications, as prescribed by her primary care physician, are Lexapro, Trazodone, and Vitamin D.

### **CONCLUSIONS OF LAW**

Findings of Fact Nos. 3 and 4 constitute violations of § 54.1-3007(6) of the Code.

### **ORDER**

On the basis of the foregoing, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS that it shall TAKE NO ACTION at this time contingent expressly upon Ellen A. Smith's compliance with the following terms and conditions:

1. Ms. Smith shall comply with all terms and conditions of the Contract with the HPMP for the period specified in the Contract.

2. 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 shall be revoked. Ms. Smith shall be noticed to appear before a Committee 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, or

b. There is a pending investigation or unresolved allegations against Ms. Smith involving a violation of law, regulation or any term or condition of probation or this order, or

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

3. This Order is applicable to Ms. Smith's multistate licensure privileges, if any, to practice

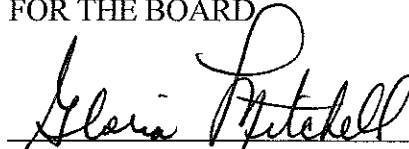
professional nursing in the Commonwealth of Virginia. For the duration of this Order, Ms. Smith shall not work outside of the Commonwealth of Virginia pursuant to a multistate licensure privilege without the written permission of the Virginia Board of Nursing and the Board of Nursing in the party state where she wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

4. 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 Board of Nursing Regulations.

This Order is subject to appeal to the Board. If Ms. Smith desires a formal administrative hearing before the Board pursuant to §§ 2.2-4020 and 2.2-4021 of the Code, she must notify Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233, in writing, within thirty-three (33) days from the date of service of this Order. Upon the filing of a request for the hearing with the Executive Director, this Order shall be vacated.

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.

FOR THE BOARD

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

Entered: February 3, 2011