

VIRGINIA:

BEFORE THE BOARD OF NURSING

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

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 February 10, 2014, in Henrico County, Virginia, to inquire into evidence that Melissa Smiley, R.N., may have violated certain laws governing nursing practice in Virginia. Ms. Smiley 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. Melissa Smiley, R.N., was issued License No. 0001-225308 to practice professional nursing in the Commonwealth of Virginia on June 28, 2010. Said license expires on October 31, 2015. Ms. Smiley’s primary state of residence is Virginia.
2. By letter dated January 14, 2014, the Board of Nursing sent a Notice of Informal Conference (“Notice”) to Ms. Smiley notifying her that an informal conference would be held on February 10, 2014. The Notice was sent by certified and first class mail to 9807 Kendrick Road, Richmond, Virginia 23236, the address of record on file with the Board of Nursing.
3. On September 10, 2013, during the course of her employment with Glenburnie Rehabilitation and Nursing Center, Richmond, Virginia, Ms. Smiley presented to work in an impaired condition. She was observed having very fast and slurred speech, and an inability to focus.

4. During the course of her employment with Hospice of Virginia, Richmond, Virginia, Ms. Smiley was observed on several occasions to appear to fall asleep or to be in an altered state with slurred speech.

5. On January 25, 2013, during the course of her employment with Gentiva Hospice, Richmond, Virginia, Ms. Smiley reported to work in an extremely lethargic condition. On February 12, 2013, she was observed slurring her words and having difficulty staying awake during a meeting. On March 11, 2013, during a conference call she was observed to be unable to participate in the call due to her exhausted condition. When staff spoke to Ms. Smiley later in the day, her motor skills appeared to have decreased since the morning conference call.

6. From October 31, 2011, to November 7, 2013, Ms. Smiley obtained 5,113 dosages of narcotic medications and benzodiazepines from 28 different prescribers and filled at 13 different pharmacies.

7. Ms. Smiley stated that she suffered from chronic migraines. She realized that she was taking an excessive amount of narcotic medications which caused rebound headaches. After losing several jobs, she stopped taking narcotic medications, and has not had any migraines since November 2013.

8. Ms. Smiley's employment with Glenburnie Rehabilitation and Nursing Center was terminated on September 17, 2013. Her employment with Gentiva Hospice was terminated on March 11, 2013, and her employment with Hospice of Virginia was terminated on November 8, 2012.

9. Ms. Smiley stated that she is currently employed with Poplar Springs Hospital, Petersburg, Virginia.

CONCLUSIONS OF LAW

1. Findings of Fact Nos. 3 through 6 constitute a violation of § 54.1-3007(6) of the Code.
2. Based on the above Findings of Fact, the Committee concludes that Ms. Smiley is a candidate for the Health Practitioners' Monitoring Program ("HPMP").

ORDER

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

1. The Committee shall TAKE NO ACTION at this time, contingent upon the following terms and conditions:

a. Melissa Smiley, R.N., shall enter into the HPMP, pursuant to § 54.1-2515 *et seq.* of the Code and 18 VAC 76-10-10 *et seq.* of the Regulations Governing the HPMP, and shall have proof of entry into a Contract with the HPMP provided to the Board within 45 days of the date this Order is entered.

b. Ms. Smiley 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. Smiley, and an administrative proceeding shall be held to decide whether her license should be revoked. Ms. Smiley shall be noticed to appear before the Board at such time as the Board is notified that:

a. Ms. Smiley has failed to make application to the HPMP;

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

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

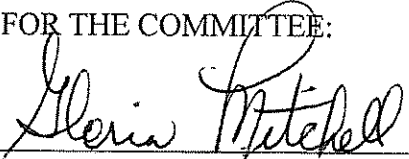
3. This order shall be applicable to Ms. Smiley's multistate licensure privilege, if any, to practice professional nursing. For the duration of this Order, Ms. Smiley shall not work outside the Commonwealth of Virginia pursuant to a multistate licensure privilege without the written permission of the Virginia Board of Nursing and the Board of Nursing in the party state where Ms. Smiley wishes to work. Any request for out of state employment shall be directed, in writing, to the Executive Director of the Board.

4. Ms. Smiley 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.

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. Smiley may, not later than 5:00 p.m., on **March 30, 2014**, 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 Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

FOR THE COMMITTEE:



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

ENTERED: February 25, 2014

This Order shall become final on **March 30, 2014**, unless a request for a formal administrative hearing is received as described above.