BEFORE THE MINNESOTA

EMERGENCY MEDICAL SERVICES REGULATORY BOARD

In the Matter of
Wanda R. Smith, EMT
Certification No. 945823

STIPULATION AND CONSENT ORDER

STIPULATION

Wanda R. Smith, EMT ("Respondent"), and the Minnesota Emergency Medical Services Regulatory Board Complaint Review Panel ("Complaint Review Panel") agree the above-referenced matter may be resolved without trial of any issue or fact as follows:

I.

JURISDICTION

1. The Minnesota Emergency Medical Services Regulatory Board ("Board") is authorized pursuant to Minnesota Statutes sections 144E.001 to 144E.52 to certify and regulate emergency medical technicians and to take disciplinary action as appropriate.

2. Respondent holds a certification from the Board to practice emergency medical services in the State of Minnesota and is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation and Consent Order.

3. Respondent was advised by the Board's representatives that she may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation. Gregory J. Schaefer, Assistant Attorney General, represents the Complaint Review Panel in this matter.

II.

FACTS

4. The parties agree this Stipulation and Consent Order is based upon the following facts:

a. The Board certified Respondent as an emergency medical technician on June 22, 2008.

b. On April 24, 2015, the Board issued an Order for Temporary Suspension, suspending Respondent's emergency medical technician certification pursuant to Minnesota Statutes section 144E.28, subdivision 6.

c. Respondent appeared in a conference before the Complaint Review Panel on August 20, 2015, and admitted ingesting methamphetamines.

d. On November 19, 2015, the Board issued Respondent a Stipulation and Consent Order suspending Respondent's certification. The suspension was stayed so long as Respondent complied with the Consent Order.

e. On February 1, 2016, the Board received Respondent's written notification expressing her intent to surrender her certification as an emergency medical technician. Following a thorough review of all available information, the Complaint Review Panel determined the matter could be resolved by mail with a Stipulation and Consent Order for the voluntary surrender of Respondent's certification.

f. On February 2, 2016, the Health Professionals Services Program unsatisfactorily discharged Respondent for voluntary withdrawal and referred her case to the Board.

III.

STATUTES

5. The Complaint Review Panel views Respondent's conduct as inappropriate in such a way as to require Board action under Minnesota Statutes section 144E.28, subdivision 5(a)(1), and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

IV.

DISCIPLINARY ACTION

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

A. Voluntary Surrender

6. The Board accepts the **VOLUNTARY SURRENDER** of Respondent's emergency medical technician certification. Respondent shall not engage in any act which constitutes the practice of emergency medical services and shall not imply by words or conduct that Respondent is authorized to do so.

7. Respondent shall surrender to the Board her emergency medical technician certification. Respondent shall personally deliver or mail the certification to the Minnesota Emergency Medical Services Regulatory Board, c/o Anthony Spector, Executive Director, 2829 University Avenue S.E., Suite 310, Minneapolis, Minnesota 55414, within ten days of the date of this Order.

B. Reinstatement

8. Respondent may petition for reinstatement of her emergency medical technician certification when she is able to demonstrate by a preponderance of the evidence that she is

capable of performing emergency medical services in a fit and competent manner. At the time of Respondent's petition, Respondent shall meet with a Complaint Review Panel. The meeting with the Complaint Review Panel shall be scheduled after Respondent has complied with, at a minimum, the following:

a. ***Certification Requirements.*** Respondent shall meet all recertification requirements in effect at the time of her petition for reinstatement, including but not limited to completing the appropriate application, paying the requisite fees, and completing any necessary education requirements.

b. ***Evaluation.*** Respondent shall submit evidence documenting current sobriety efforts, including attendance at AA, and current medical conditions which may interfere with compliance of any monitoring.

c. ***Additional Information.*** Respondent shall provide any additional information relevant to her petition reasonably requested by the Complaint Review Panel, including a fit-for-duty evaluation to be conducted by a provider approved by the Board.

9. The Board may, at any regularly scheduled meeting following Respondent's petition for reinstatement pursuant to paragraph 8 above, take any of the following actions:

a. Issue an emergency medical technician certification to Respondent;

b. Issue an emergency medical technician certification to Respondent with limitations upon the scope of Respondent's practice and/or with conditions for Respondent's practice; or

c. Deny Respondent's request for issuance of an emergency medical technician certification based upon her failure to meet the burden of proof.

V.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

10. If Respondent fails to comply with or violates this Stipulation and Consent Order, the Complaint Review Panel may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

11. The Complaint Review Panel shall schedule a hearing before the Board. At least 20 days prior to the hearing, the Review Panel shall mail Respondent a notice of the violation(s) alleged by the Review Panel. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Respondent shall submit a written response to the allegations. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

12. The Complaint Review Panel, in its discretion, may schedule a conference with Respondent prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

13. Prior to the hearing before the Board, the Complaint Review Panel and Respondent may submit affidavits and written argument in support of their positions. At the hearing, the Complaint Review Panel and Respondent may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Consent Order. Unless stated otherwise in this Stipulation and Consent Order, the Complaint Review Panel shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Respondent has failed to submit a timely response to the allegations, Respondent may not contest

the allegations but may present argument concerning the appropriateness of additional discipline. Respondent waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

14. Respondent's correction of a violation prior to the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Complaint Review Panel not to seek discipline when it first learns of a violation will not waive the Complaint Review Panel's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while this order is in effect.

15. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board will dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including revocation of Respondent's certification.

16. Nothing herein shall limit the Complaint Review Panel's or the Board's right to temporarily suspend Respondent's certification pursuant to Minnesota Statutes section 144E.28, subdivision 6, based on a violation of this Stipulation and Consent Order or based on conduct of Respondent not specifically referred to herein.

VI.

ADDITIONAL TERMS

17. Respondent waives any further hearings on this matter before the Board to which Respondent may be entitled by Minnesota or United States Constitutions, statutes, or rules.

18. Respondent waives any claims against the Board, the Minnesota Attorney General, the State of Minnesota, and their agents, employees, and representatives related to the

investigation of the conduct herein, or the negotiation or execution of this Stipulation and Consent Order, which may otherwise be available to Respondent.

19. This Stipulation and Consent Order, the files, records, and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

20. Either party may seek enforcement of this Stipulation and Consent Order in any appropriate civil court.

21. Respondent is responsible for all costs incurred as a result of compliance with this Stipulation and Consent Order.

22. Respondent has read, understands, and agrees to this Stipulation and Consent Order and has voluntarily signed the Stipulation and Consent Order. Respondent is aware this Stipulation and Consent Order must be approved by the Board before it goes into effect. The Board may approve the Stipulation and Consent Order as proposed, approve it subject to specified change, or reject it. If the changes are acceptable to Respondent, the Stipulation and Consent Order will take effect and the Stipulation and Consent Order as modified will be issued. If the changes are unacceptable to Respondent or the Board rejects the Stipulation and Consent Order, it will be of no effect except as specified in the following paragraph.

23. In the event the Board in its discretion does not approve this Stipulation and Consent Order or a lesser remedy than indicated in this settlement, and this case comes before the Board, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Consent Order or of any records relating to it.

24. This Stipulation and Consent Order shall not limit the Board's authority to proceed against Respondent by initiating a contested case hearing or by other appropriate means

on the basis of any act, conduct, or admission of Respondent which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

VII.

DATA PRACTICES NOTICE

25. This Stipulation and Consent Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Data regarding this action will be provided to data banks as required by federal law or consistent with Board policy. While this Stipulation and Consent Order is in effect, information obtained by the Board pursuant to this Stipulation and Consent Order is considered active investigative data on a registered or certified health professional and, as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subdivision 4.

26. Respondent hereby acknowledges that she has read and understands this Stipulation and has voluntarily entered into this Stipulation. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Stipulation.

CONSENT:

MINNESOTA EMERGENCY MEDICAL SERVICES REGULATORY BOARD COMPLAINT REVIEW PANEL

WANDA R. SMITH, EMT
Respondent

Dated: 3/16/2016

MATTHEW SIMPSON
Board Member

Dated: 3.17.2016

ORDER

Upon consideration of this Stipulation and Consent Order and all the files, records, and proceedings herein, the Board **RESCINDS** the November 19, 2015, Stipulation and Consent Order, accepts the **VOLUNTARY SURRENDER** of Respondent's emergency medical technician certification, and adopts all of the terms described above on this 17th day of March, 2016.

MINNESOTA EMERGENCY MEDICAL
SERVICES REGULATORY BOARD

ANTHONY SPECTOR
Executive Director