BEFORE THE MINNESOTA

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

In the Matter of
Kathy E. Johnson, LNHA
License No. 3876

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by Kathy E. Johnson ("Licensee"), and the Minnesota Board of Examiners for Nursing Home Administrators Standards of Practice Committee ("Committee") as follows:

I.

JURISDICTION

1. The Minnesota Board of Examiners for Nursing Home Administrators ("Board") is authorized pursuant to Minn. Stat. Ch. 144A to license and regulate nursing home administrators and to take disciplinary action as appropriate.

2. Licensee holds a license from the Board to practice as a licensed nursing home administrator 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 Order.

II.

FACTS

3. For the purpose of this stipulation, the Board may consider the following facts as true:

a. Licensee has been licensed by the Board as a nursing home administrator in the State of Minnesota since January 24, 2008.

b. Licensee is the AOR of a health services entity, including a licensed nursing home, located in Dawson, Minnesota beginning on January 24, 2008.

c. Licensee was the Administrator of Record ("AOR") for a nursing home located in Madison, Minnesota from February 1, 2014 through July 14, 2014.

d. On February 24, 2014, the Minnesota Department of Health ("MDH") conducted a survey and compliance review and determined the nursing home of which Licensee was the AOR had provided substandard quality of care. The MDH survey and compliance review indicated substandard quality of care in violation of F 226 42 C.F.R. § 483.13(c) and identified the care provided as an immediate jeopardy to resident health and safety.

e. As evidenced by the MDH survey, Licensee failed to ensure that residents were free from abuse by failing to be immediately notified of abuse/mistreatment allegations and to lead investigations into those allegations.

f. As evidenced by the MDH survey, Licensee failed to develop and implement policies to ensure residents were safe from abuse and neglect. Licensee failed to participate in Quality Assurance and Assessment ("QAA") Committees that reviewed all incident and accident reports and revised policies as indicated to provide resident safety.

g. During the MDH survey, an unlicensed hospital administrator served as the administrative liaison contact for the nursing home.

h. During her time as AOR for the facility in Madison, Licensee visited the facility approximately twenty times. From April 8, 2014 through May 12, 2014, Licensee was on Family Medical Leave; however, Licensee visited the Madison facility twice. Following her return to work, Licensee worked only 4-6 hours per day for a period of four weeks.

i. On December 1, 2014, Licensee was sent a Notice of Conference with the Minnesota Board of Examiners for Nursing Home Administrators Standards of Practice Committee scheduling a conference for January 28, 2015.

j. During the January 28, 2015, conference, Licensee admitted that she did not maintain a sufficient on-site presence at the nursing home to effectively manage the facility. Licensee further stated that another employee who was not a licensed nursing home administrator inhibited her efforts to achieve compliance with applicable rules and regulations for that facility; however, she did not inform the Board regarding the situation.

III.

REGULATIONS

4. The Board views Licensee's practices as described in paragraph 3 above to be in violation of statutes and rules enforced by the Board and constitutes a reasonable basis in law and fact to justify the disciplinary action provided for in this Stipulation and Consent Order. Licensee agrees that the conduct cited above constitutes the following violations:

a. Failed to comply with Minnesota Statutes section 626.557, the Vulnerable Adult Act, in violation of Minn. R. 6400.6900 subp. 1(D);

b. Violated a statute, rule, or order that the board issued or is empowered to enforce or that pertains to administration of a nursing facility or to the responsibilities of a nursing home administrator, in violation of Minn. R. 6400.6900 subp. 1(E);

c. Committed acts of misconduct substantially related to the qualifications, function, or duties of a nursing home administrator and evidenced unfitness

to perform as a nursing home administrator in a manner consistent with protecting resident health, safety, and welfare, in violation of Minn. R. 6400.6900 subp. 1(G);

d. Engaged in fraudulent, deceptive, or dishonest conduct, whether or not the conduct relates to the practice of nursing home administration, that adversely affects the individual's ability or fitness to practice as a nursing home administrator, in violation of Minn. R. 6400.6900 subp. 1(H);

e. Engaged in unprofessional conduct or any other conduct with potential for causing harm to the public or facility residents including any departure from or failure to conform to the minimum standards of acceptable and prevailing practice, as specified in state and federal statutes and rules concerning administration of nursing home facilities, without actual injury having to be established, in violation of Minn. R. 6400.6900 subp. 1(I);

f. Failed to exercise true regard for the safety, health, or life of a resident, in violation of Minn. R. 6400.6900 subp. 1(J); and

g. Knowingly aided, advised, or allowed an unlicensed person to engage in the unlicensed practice of nursing home administration, in violation of Minn. R. 6400.6900 subp. 1(P).

IV.

REMEDY

5. Upon this stipulation and all the files, records, and proceedings herein, and without further notice or hearing, the Board enters an order as follows:

a. The Board **CONDITIONS** Licensee's license as follows:

1) Within six months of the date of this order, Licensee must take six credits of continuing education classes on the topic of ethics and six hours on the topic of leadership. The continuing education must be in-person and preapproved by the Committee. In order to obtain preapproval, Licensee must submit written documentation, such as measurable learning objectives and qualifications of the instructor. These hours of continuing education may not be applied to the continuing education requirements for license renewal.

b. The Board **LIMITS** Licensee's license as follows:

1) Licensee may not act as a preceptor for a period for twenty-four months.

2) Licensee may not be the Administrator of Record for more than one facility simultaneously for a period of twenty-four months.

6. Upon completing the requirements set forth in paragraph 5, the conditions and limitations on Licensee's license will be administratively lifted.

7. In the event the Board at its discretion does not approve this settlement, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party to this stipulation, except that Licensee agrees that should the Board reject this stipulation and this case proceeds to hearing, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating to this matter.

8. In the event Licensee resides or practices outside the State of Minnesota, Licensee must promptly notify the Board in writing of the location of her residence and all work sites. Periods of residency or practice outside of Minnesota will not be credited toward any period of Licensee's suspended, limited, or conditioned license in Minnesota unless Licensee demonstrates

that practice in another state conforms completely with Licensee's Minnesota license to practice as a licensed nursing home administrator.

9. Any appropriate court may, upon application of the Board, enter its decree enforcing the order of the Board.

10. Licensee has been advised by Board representatives that she may choose to be represented by legal counsel in this matter. Licensee waived her right to legal representation. The Standards of Practice Committee is represented by Jennifer C. Middleton, Assistant Attorney General.

11. Licensee waives all formal hearings on this matter and all other procedures before the Board to which Licensee may be entitled under the Minnesota or United States constitutions, statutes, or rules and agrees that the order to be entered pursuant to the stipulation shall be the final order herein.

12. Licensee hereby knowingly and voluntarily waives any and all claims against the Board, the Minnesota Attorney General, the State of Minnesota and their agents, employees, and representatives which may otherwise be available to Licensee under the Americans With Disabilities Act or the Minnesota Human Rights Act relative to the action taken or authorized against Licensee's license to practice as a licensed nursing home administrator under this stipulation.

13. Licensee hereby acknowledges that she has read, understands, and agrees to this stipulation and has freely and voluntarily signed the stipulation without threat or promise by the Board or any of its members, employees, or agents. When signing the stipulation, Licensee acknowledges she is fully aware the stipulation is not binding unless and until it is approved by the Board.

14. This Stipulation and Consent Order constitutes a disciplinary action against Licensee.

15. This Stipulation and Consent Order is a public document and will be sent to all appropriate data banks and entities consistent with Board policy.

16. This stipulation contains the entire agreement between the parties there being no other agreement of any kind, verbal or otherwise, which varies this stipulation.

LICENSEE

Kathy E. Johnson

KATHY E. JOHNSON, LNHA

Dated: 7/13/15

FOR THE STANDARDS OF PRACTICE COMMITTEE

Nancy Tudera

BOARD MEMBER

Dated: 7/22/15

ORDER

Upon consideration of the Stipulation and all the files, records and proceedings herein, the terms of the Stipulation are approved and adopted, and the recommended remedy set forth in the Stipulation is hereby issued as an Order of this Board effective this 22 day of JULY, 2015.

MINNESOTA BOARD
OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS

Randy Snyder

RANDY SNYDER
Executive Director