

**BEFORE THE VIRGINIA BOARD OF NURSING**

**IN RE: RUBY FRANCES RICHERSON, C.N.A. REINSTATEMENT APPLICANT**  
**a.k.a. RUBY RICHARDSON**  
**Certificate Number: 1401-092120**  
**Suspension Date: May 16, 2016**  
**Case Numbers: 176334, 168778**

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**NOTICE OF FORMAL ADMINISTRATIVE HEARING  
AND STATEMENT OF ALLEGATIONS**

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You are hereby notified that a formal hearing has been scheduled before the Board of Nursing ("Board") regarding your application for reinstatement of your certificate to practice as a nurse aide in the Commonwealth of Virginia following its mandatory suspension by the Department of Health Professions.

<b>TYPE OF PROCEEDING:</b>	This is a formal administrative hearing before a panel of the Board.
<b>DATE AND TIME:</b>	<b>November 17, 2016</b> <b>1:00 P.M.</b>
<b>PLACE:</b>	Virginia Department of Health Professions Perimeter Center - 9960 Mayland Drive 2 <sup>nd</sup> Floor - Virginia Conference Center Henrico, Virginia 23233

**LEGAL AUTHORITY AND JURISDICTION:**

1. This formal hearing is being held pursuant to Virginia Code §§ 2.2-4020, 2.2-4024(F), and 54.1-2400(11). This proceeding will be convened as a public meeting pursuant to Virginia Code § 2.2-3700.

2. The burden rests on you, as the applicant, to demonstrate that you meet the requirements for reinstatement of your certificate.

3. In considering your application, the Board will consider evidence that grounds may exist to refuse to issue you a certificate to practice as a nurse aide, as more fully set out in the enclosed Statement of Allegations.

4. At the conclusion of the proceeding, the Board is authorized to take any of the following actions:

- Approve your application and issue an unrestricted certificate to practice as a nurse aide;

- Approve your application and issue a restricted certificate subject to terms and conditions;
- Deny your application and continue your certificate on indefinite suspension or revoke your certificate.

#### **ABSENCE OF RESPONDENT AND RESPONDENT'S COUNSEL:**

If you fail to appear at the formal hearing, the Board may proceed to hear this matter in your absence and may take any of the actions outlined above.

#### **RESPONDENT'S LEGAL RIGHTS:**

You have the right to the information on which the Board will rely in making its decision, to be represented by counsel at this proceeding, to subpoena witnesses and/or documents, and to present relevant evidence on your behalf.

#### **COMMONWEALTH'S EXHIBITS:**

Enclosed is a copy of the documents that will be distributed to the members of the Board and will be considered by the Board when discussing any allegations with you and when deliberating on your case. **These documents are enclosed only with the notice sent by certified mail, which you may be required to claim at the post office. Please bring these documents with you to the formal hearing.**

#### **FILING DEADLINES:**

1. Deadline for filing exhibits: November 7, 2016. Submit 15 copies of all documents you want the Board to consider to Darlene Graham, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. Exhibits may not be sent by facsimile or e-mail.

The Commonwealth must file any objections to your submissions in writing, addressed to Darlene Graham at the Board office, no later than **November 7, 2016**. If no objections have been received by **November 7, 2016**, the evidence will be distributed to the Board members for their review, and will be considered by the Board as evidence when it deliberates upon your case. If the Commonwealth raises objections, you have until **November 7, 2016**, to file your response to the objections, in writing and addressed to Darlene Graham at the Board office. The Chair of the proceeding will rule on the motion.

2. Deadline for filing motions, including requests for continuance or objections to exhibits, in writing, to Darlene Graham at the above address: November 7, 2016. NOTE: Failure to object to the distribution prior to the proceeding will not affect your right to contest any information contained in these documents at the proceeding.

3. Deadline for filing any objections to the Commonwealth's exhibits, in writing, to Darlene Graham at the above address: **November 7, 2016**. If you have not filed any objections by November 7, 2016, the exhibits will be distributed to the Board members for their review prior to your hearing, and will be considered by the Board as evidence when it deliberates upon your case. If you do file objections, the Commonwealth has until **November 7, 2016**, to file a response to the objections, in writing and addressed to Darlene Graham at the Board office. The Chair of the proceeding will rule on the motion.

### **OTHER PRE-HEARING MOTIONS**

If you or Adjudication Specialist Carla Boyd desire to make any pre-hearing motions regarding matters other than the exhibits, including offers of settlement, each of you is directed to file motions, in writing, addressed to Darlene Graham at the Board office by **November 7, 2016**. Responses to motions filed must be submitted by **November 7, 2016**. The Chair of the proceeding will rule on the motion.

### **REQUEST FOR A CONTINUANCE**

Absent exigent circumstances, such as personal or family illness, a request for a continuance after **November 7, 2016**, will not be considered. If you obtain counsel, you should do so as soon as possible, as a motion for a continuance due to the unavailability of counsel will not be considered unless received by **November 7, 2016**.

### **OTHER IMPORTANT INFORMATION:**

Pursuant to Virginia Code § 54.1-2409(D), reinstatement of your certificate requires the affirmative vote of three-fourths of the members of the Board in attendance at the hearing.

If the Board finds that there is sufficient evidence to find you in violation of the allegation(s) stated below and Virginia Code § 54.1-3007(8), the Board shall make a finding of abuse, neglect, and/or misappropriation of patient property, which will be entered in the Virginia Nurse Aide Registry pursuant to 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D) of the Code of Federal Regulations. According to 42 CFR § 483.13(c)(1)(ii)(B), such a finding will prohibit your future employment as a certified nurse aide in any long term care facility that receives Medicare or Medicaid reimbursement.

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**STATEMENT OF ALLEGATIONS**

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The Board alleges that grounds exist to refuse to reinstate the certificate of Ruby Frances Richerson, C.N.A. to practice as a nurse aide in that:

1. Ms. Richerson violated Virginia Code § 54.1-3007(4) in that, on May 1, 2007, in the Circuit Court of the City of Buena Vista, Virginia, she was convicted of one felony count of distribution of a Schedule I/II drug. Pursuant to Virginia Code § 54.1-2409, this conviction formed the basis for the mandatory suspension of her license by Order of the Department of Health Professions entered May 16, 2016.
2. Ms. Richerson violated Virginia Code § 54.1-3007(2), (5) and (8) and 18 VAC 90-25-100(2)(e) of the Regulations Governing Certified Nurse Aides (“Regulations”) in that, during the course of her employment at Avante of Lynchburg, Lynchburg, Virginia (“Avante”), on or about July 7, 2015, while entering Resident A’s room, she hit the resident on the upper right arm in a pushing motion. As Ms. Richerson exited Resident A’s room, she hit the resident on the right shoulder. Resident A reported that Ms. Richerson assaulted her in a similar fashion approximately four times that month.
3. Ms. Richerson violated Virginia Code § 54.1-3007(2) and (5) 18 VAC 90-25-100(2)(d) of the Regulations in that:
  - a. On her October 9, 2015 application for employment with Envoy of Westover Hills, Richmond, Virginia, she indicated that her reason for leaving Avante was that she “found another job,” when, in fact, her employment had been terminated for being rough and inappropriate with a resident.

b. On her July 24, 2015 application for employment with Carrington of Lynchburg, Lynchburg, Virginia, she indicated that her reason for leaving Avante was that she “just quit,” when, in fact, her employment had been terminated for being rough and inappropriate with a resident.

c. On her January 13, 2010 application for employment with Lucy Corr Village, Chesterfield, Virginia, she answered “No” to the question, “Have you ever been convicted of a felony?” In fact, Ms. Richerson had been convicted of a felony as more fully set out in Allegation 1.

See Confidential Attachment I for the name of the resident referenced above.



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

November 2<sup>nd</sup>, 2016  
Date