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VA BD OF NURSING

COMMONWEALTH of VIRGINIA

David E. Brown, D.C.  
Director

Department of Health Professions

Perimeter Center  
9960 Mayland Drive, Suite 300  
Henrico, Virginia 23233-1463

www.dhp.virginia.gov  
TEL (804) 367-4400  
FAX (804) 527-4475

February 4, 2015

Sue Ella Merritt  
125 Linden Avenue  
Broadway, VA 22815

CERTIFIED MAIL

DUPLICATE COPY  
VIA FIRST CLASS MAIL

RE: License No.: 0001-109076

DATE 2/4/15

Dear Ms. Merritt:

Pursuant to Section 54.1-2409 of the Code of Virginia (1950), as amended, ("Code"), you are hereby given notice that your license to practice nursing in the Commonwealth of Virginia has been mandatorily suspended by the enclosed Order entered February 4, 2015. You are hereby advised that, pursuant to Section 54.1-2409.1 of the Code, any person who practices a profession or occupation after having their license or certificate to do so suspended shall be guilty of a felony. Please return your license to Jay P. Douglas, Executive Director of the Virginia Board of Nursing, at the above address, immediately upon receipt of this letter.

Section 54.1-2409 of the Code further provides that you may apply to the Board of Nursing ("Board") for reinstatement of your license, and shall be entitled to a hearing not later than the next regular meeting of the Board after the expiration of sixty days from the receipt of such reinstatement application. You have the following rights, among others: to be represented by legal counsel, to have witnesses subpoenaed on your behalf, to present documentary evidence and to cross-examine adverse witnesses. The reinstatement of your license shall require the affirmative vote of three-fourths of the members present of the Board of Nursing.

Should you wish to petition the Board of Nursing for reinstatement of your license, contact Jay P. Douglas, Executive Director, at the above address or (804) 367-4599.

Sincerely,

Jaime H. Hoyle, Esquire, Chief Deputy Director  
Department of Health Professions

Enclosures  
Case # 160329

**VIRGINIA:**

**BEFORE THE DEPARTMENT OF HEALTH PROFESSIONS**

**IN RE: SUE ELLA MERRITT, R.N.  
License No.: 0001-109076**

**ORDER**

In accordance with Section 54.1-2409 of the Code of Virginia (1950), as amended, ("Code"), I, Jaime H. Hoyle, Esquire, Chief Deputy Director of the Virginia Department of Health Professions, received and acted upon evidence that the license of Sue Ella Merritt, R.N., to practice nursing in the State of West Virginia was suspended by a Letter of Suspension dated November 13, 2014. A certified copy of the Letter of Suspension (with attachment) is attached to this Order and is marked as Commonwealth's Exhibit No. 1.

WHEREFORE, by the authority vested in the Director of the Department of Health Professions pursuant to Section 54.1-2409 of the Code, it is hereby ORDERED that the license of Sue Ella Merritt, R.N., to practice nursing in the Commonwealth of Virginia be, and hereby is, SUSPENDED.

Upon entry of this Order, the license of Sue Ella Merritt, R.N., will be recorded as suspended and no longer current. Should Ms. Merritt seek reinstatement of her license pursuant to Section 54.1-2409 of the Code, she shall be responsible for any fees that may be required for the reinstatement and renewal of her license prior to issuance of her license to resume practice.

Pursuant to Sections 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 a public record and shall be made available for public inspection and copying upon request.

  
\_\_\_\_\_  
Jaime H. Hoyle, Esquire, Chief Deputy Director  
Department of Health Professions

ENTERED: 2/4/2015



# COMMONWEALTH of VIRGINIA

David E. Brown, D.C.  
Director

## Department of Health Professions

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9960 Mayland Drive, Suite 300  
Henrico, Virginia 23233-1463

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### CERTIFICATION OF DUPLICATE RECORDS

I, Jaime H. Hoyle, Esquire, Chief Deputy Director of the Department of Health Professions, hereby certify that the attached Letter of Suspension (with attachment) dated November 13, 2014, regarding Sue Ella Merritt, R.N., is a true copy of the records received from the West Virginia Board of Examiners for Registered Professional Nurses.

  
\_\_\_\_\_  
Jaime H. Hoyle, Esquire

Date: 2/4/2015

Laura S. Rhodes, M.S.N., R.N.  
Executive Director

email: rnboard@wv.gov  
web address: www.wvrnboard.com



TELEPHONE:  
(304) 558-3596  
(304) 558-3728  
FAX: (304) 558-3666

STATE OF WEST VIRGINIA  
BOARD OF EXAMINERS FOR REGISTERED PROFESSIONAL NURSES  
101 Dee Drive, Suite 102  
Charleston, WV 25311-1620

November 13, 2014

SUE E MERRITT  
618 CRAB RUN ROAD  
MATHIAS WV 26812-

Re: Suspension  
License No. 38522

Dear Ms. MERRITT:

This letter is to inform you your license to practice registered professional nursing is **SUSPENDED**. Return the license presently in your possession to this office immediately in the envelope enclosed.

Board records indicate your license lapsed on October 31, 2014. Therefore you violated your probation consent agreement.

Your license is **SUSPENDED** and will be reported as such upon inquiry to this office. You may not practice as a registered professional nurse in the State of West Virginia without a valid active license to do so.

Refer to the section Violation of Terms found on page six (6) of the Consent Agreement for information regarding the reinstatement of your license.

Should you have any questions or desire further information please contact this office and speak with me.

For the Board,

A handwritten signature in cursive script, appearing to read "Laura Skidmore Rhodes".

Laura Skidmore Rhodes, RN, MSN  
Executive Director

xc: file



WEST VIRGINIA STATE BOARD OF EXAMINERS  
FOR REGISTERED PROFESSIONAL NURSES

IN THE MATTER OF SUE MERRITT

PROPOSED CONSENT AGREEMENT

Comes now SUE MERRITT (MERRITT), and the West Virginia Board of Examiners for Registered Professional Nurses ("Board"), for the purpose of determining what disciplinary action should be taken against MERRITT by the Board pursuant to West Virginia Code §30-7-1 et seq. (1993). As reflected in this document, MERRITT has admitted to the stipulations set forth herein, and moves the Board consider these stipulations and the terms of the accompanying proposed agreement, and enter an ORDER accepting the proposed terms set forth below.

In offering this proposal for settlement of the complaint against license number 38522, MERRITT acknowledges that the Board may reject this proposal, and may hold a hearing to impose revocation or other conditions of a disciplinary nature as it deems appropriate.

STIPULATIONS

1. MERRITT holds registered professional nursing license number 38522, issued by the Board on or about October 28, 1986.
2. At all times pertinent MERRITT was employed at E.A. Hawse Nursing & Rehabilitation Center, Inc. (EAHNRC INC.), Baker, West Virginia.
3. On April 13, 2011 the Board received a complaint letter from EAHNRC INC., alleging MERRITT made up patient Blood Pressure (BP) readings and falsified BP documentation.
4. The Board sent MERRITT an official Notice of Complaint incorporating the allegations by EAHNRC INC.
5. In response to the Notice of Complaint MERRITT provided the following in pertinent part: "Most of the residents of the Hawse Nursing/Rebab Center are either relatives of mine or relatives of school classmates or neighbors. The biggest job responsibility of the professional RN at a long term care facility is the medication dispensing (med passes). There is very little, if any, time remaining for more proactive nursing task after the 5-7 hours per shift involved in dispensing drugs for several med passes."

"As noted on the allegations, a new computer system required BP's for all residents on certain medications (before that BP readings were ordered by the physicians). Sometimes, the BP equipment available was not calibrated correctly or there were

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problems with the available digital equipment not working properly. Realistically, the numerous BP's flagged by the system could not be completed and all the drugs dispensed within the required times (1 hour before or after ordered times). When a resident became ill or the physician ordered a BP, I would come back to the resident and take a BP reading to make sure it was right."

6. During EAHNRC INC. inhouse investigation MERRITT admitted she had documented the blood pressures to satisfy the system.

7. A review of the medication administration records from March 1 through March 30, 2011 indicates MERRITT initialed taking BP's and documented BP readings on the medication administration system for the following 16 patients:

Patient 1: Atenol, hold if Systolic Blood Pressure (SBP) is less than 100 or Diastolic Blood Pressure (DBP) less than 60. Initialed as given five (5) times by MERRITT

Patient 2: Lopressor, hold if SBP is less than 100 or DBP is less than 60. Initialed as given five (5) times by MERRITT.

Patient 3: Metoprolol, hold if SBP is less than 100 or DBP is less than 60. Initialed as given five (5) times by MERRITT.

Patient 4: Lopressor, hold if SBP is less than 100 or DBP is less than 60. Initialed as given five (5) times by MERRITT.

Patient 5: Lopressor, hold if SBP is less than 100 or DBP is less than 60. Initialed as given five (5) times by MERRITT.

Patient 6: Lopressor, hold if SBP is less than 100 or DBP is less than 60. Initialed as given six (6) times by MERRITT.

Patient 7: Capoten, hold if SBP is less than 100 or DBP is less than 60. Initialed as given seven (7) times by MERRITT.

Patient 8: Lopressor, hold if SBP is less than 100 or DBP is less than 60. Initialed as given seven (7) times by MERRITT.

Patient 9: Lopressor, hold if SBP is less than 100 or DBP is less than 60. Initialed as given seven (7) times by MERRITT.

Patient 10: Coreg, hold if SBP is less than 100 or DBP is less than 60. Initialed as given seven (7) times by MERRITT.

Patient 11: Coreg, hold if SBP is less than 100 or DBP is less than 60. Initialed as given seven (7) times by MERRITT.

Patient 12: Inderal, hold if SBP is less than 100 or DBP is less than 60. Initialed as given seven (7) times by MERRITT.

Patient 13: Metoprolol, hold if SBP is less than 100 or DBP is less than 60. Initialed as given seven (7) times by MERRITT.

Patient 14: Coreg, hold if SBP is less than 100 or DBP is less than 60. Initialed as given five (5) times by MERRITT.

Patient 15: Lopressor, hold if SBP is less than 100 or DBP is less than 60. Initialed as given five (5) times by MERRITT.

Patient 16: Metoprolol, hold if SBP is less than 100 or DBP is less than 60. Initialed as given seven (7) times by MERRITT.

8. In a telephone statement obtained from MERRITT on June 7, 2011 she stated "I did make up blood pressures and document them because I didn't have time because I had a medicine pass."

9. MERRITT was terminated from EAHNRC, INC., March 22, 2011.

10. MERRITT acknowledges that her conduct violated West Virginia Code §30-7-11 (f), which state that the licensee may be disciplined if he or she (f)[i]s guilty of conduct derogatory to the morals or standing of the profession of registered nursing.

### CONCLUSIONS OF LAW

The West Virginia Board of Examiners for Registered Professional Nurses concludes that the stipulations support the sanction of disciplinary action pursuant to West Virginia Code §30-7-1 et seq. pertaining to the practice of registered professional nursing.

Specifically, the stipulations support sanctions under the following sections of the West Virginia Code:

a. West Virginia Code §30-7-11 (f), which states that a licensee may be disciplined upon proof that he or she [i]s guilty of conduct derogatory to the morals or standing of the profession of registered nursing.

### CONSENT

MERRITT, by affixing her signature hereon, agrees to the following:

1. She acknowledges that she is aware of her option to retain legal counsel and to be represented by legal counsel at a formal hearing before the Board.

2. She intelligently and voluntarily waives her right to a formal hearing before the Board in this matter, if the Board accepts the terms and conditions set forth herein and joins with her in executing this agreement.
3. She acknowledges that she is fully aware that without her consent, no legal action can be taken against her by this Board, except pursuant to West Virginia Code §30-7-1 et seq. and relevant rules.
4. She submits this proposed agreement freely and voluntarily and not under duress, restraint or compulsion.
5. She agrees that the Board may investigate her background at any time during the term of this agreement.
6. She consents to the entry of the following order affecting her license to practice registered professional nursing in the State of West Virginia.
7. She understands that the Board may accept or reject the facts and terms set forth in this proposed agreement, and may impose revocation or other conditions of a disciplinary nature as are deemed appropriate.

### ORDER

On the basis of the foregoing, the Board hereby ORDERS that license number 38522, issued to MERRITT, be suspended for the period of one (1) year. Such suspension is hereby stayed contingent upon MERRITT complying with the terms set forth below, and license number 38522 is placed on probation for a period of one (1) year employment as a registered professional nurse. The computation of such period is to begin on the date on which notice is received in the office of the Board that MERRITT is employed as a registered professional nurse and shall run only during such time that she is employed as a registered professional nurse on at least a permanent part-time basis (forty hours every two weeks) or full time basis in the State of West Virginia. The Board also ORDERS MERRITT pay a fine and administrative costs in the amount of One Thousand Dollar(s) (\$1,000.00).

To receive and maintain a probationary license, regardless of employment status, MERRITT shall meet the following conditions:

#### **Terms:**

1. MERRITT shall not violate the provisions of West Virginia Code §30-7-1 et seq.
2. MERRITT shall not commit any act which would be a crime under West Virginia or federal law. If SUE MERRITT is charged by any law enforcement agency with committing any such criminal act, she shall notify the Board in writing of the formal charge(s) against her, and resolution of same.

3. MERRITT shall maintain a current and active license in the State of West Virginia. She shall not allow her license to lapse or be placed on an inactive status.
4. MERRITT shall not, under any circumstances, misrepresent her licensure status.
5. MERRITT shall not be employed by a nursing registry, temporary nursing agency, home health care agency, or as a private duty nurse.
6. MERRITT shall not work in an autonomous nursing position. She shall work only under the direct supervision of a registered professional nurse in a structured setting throughout the term of her probation. Such supervising registered professional nurse must, at the time of said supervision, hold an active, unencumbered West Virginia license.
7. MERRITT shall inform the Board in writing within ten (10) days of the date she assumes the practice of registered professional nursing, or any employment in the health care field, in the State of West Virginia and shall include the name, address, and telephone number of her employer. She shall provide in writing the name of her immediate registered professional nurse supervisor. MERRITT shall inform the Board of any interruption in nursing practice or change in employment within ten (10) days of such interruption or change.
8. MERRITT shall immediately inform her nursing employer, any prospective nursing employer, and the director of any nursing education program in which she enrolls or teaches, that the Board has placed her license on probation, and shall provide a complete copy of this agreement to her employer(s). The Board may provide her employer(s) with a copy of this agreement and may communicate with her employer(s).
9. MERRITT shall, within ten (10) days of employment or continuation of practice, cause her employer or immediate registered professional nurse supervisor, to notify the Board, in writing, of the employer or supervisor's receipt of a copy of this agreement. MERRITT shall further cause her employer or supervisor to submit monthly reports to the Board describing MERRITT's job performance, attendance, attitude, and other work behaviors during the first year of probation and if her progress is satisfactory to the Board, quarterly thereafter.
10. MERRITT shall submit documentation of fifteen (15) contact hours of continuing education in ethics each year during the time her license is on probation, in addition to those required by law.
11. MERRITT shall report in person for appointment with the Board staff upon request.
12. MERRITT shall annually submit to the Board a written personal statement. The

statement shall be due at the end of the first year and in each subsequent year during the month in which this agreement is accepted by the Board.

**Violation of Terms:**

13. Any deviation from these requirements without prior written consent of the Board shall constitute a violation of this Order, and result in immediate suspension of MERRITT's probationary license.

14. The Board shall immediately notify MERRITT via certified mail of the specific nature of the charges, and the suspension of her license.

a. MERRITT may request reinstatement of her probationary license through renewal of this agreement, or execution of a new agreement, which may contain different or additional terms. The Board is not bound to comply with this request.

b. If the Board does not accept a renewed or new agreement, MERRITT shall be notified in writing. MERRITT may, request a hearing to seek reinstatement of her probationary license. If MERRITT requests a hearing following suspension for violation of this agreement and does not prevail, the cost incurred in holding such hearing shall be borne by MERRITT. If MERRITT prevails, the cost of such hearing shall be borne by the Board. Cost shall refer only to the expense of employing a court reporter and hearing examiner for the purpose of the hearing, and shall not include any legal or other fees incurred by the Board or MERRITT in bringing the matter to hearing.

c. The Board may schedule a hearing on its own initiative for the purpose of allowing the Board opportunity for considering further suspension or revocation of MERRITT's license. Said hearing shall be scheduled in accordance with the provisions of West Virginia Code §30-1-8 and §30-1-7 et. seq. The Board shall bear the cost if it should seek a hearing following suspension of MERRITT's probationary license for violation of this agreement. Cost shall refer only to the expense of employing a court reporter and hearing examiner for the purpose of the hearing, and shall not include any legal or other fees incurred by MERRITT in bringing the matter to hearing.

**Petition for Reinstatement:**

15. Following the one (1) year probationary period, MERRITT may petition to appear before the Board and submit satisfactory evidence that she is presently able to safely engage in the practice of registered professional nursing. Evidence in support of this request shall include:

- a. Letter of reference from MERRITT's employer, if employed;
- b. Letter from MERRITT outlining her future plans; and
- c. Payment of all fines and administrative cost.

However, the terms of this Order shall remain in effect and subject to yearly review and appropriate revision by the Board until such time as MERRITT's license is fully reinstated by the Board.

WHEREFORE, MERRITT hereby requests that the Board accept the stipulations and impose sanctions in accordance with West Virginia Code §30-7-1 et seq.

Sue Merritt  
SUE MERRITT

2/23/12  
Date

Melissa F. Merritt, Dtg  
Witness

2/23/12  
Date

Agreed to:

Judy Nystrom  
Mrs. Judy Nystrom  
Disciplinary Review Committee Member

3-1-12  
Date

Teresa Ritchie  
Teresa Ritchie, RN, MSN, FNP  
Disciplinary Review Committee Member

3-5-12  
Date

Mary Elizabeth Farmer, PhD  
Mary Elizabeth Farmer, PhD  
Disciplinary Review Committee Member

3-8-12  
Date

Laura S. Rhodes  
Laura S. Rhodes, RN, MSN  
Executive Director

3/8/12  
Date

West Virginia Board of Examiners  
for Registered Professional Nurses

ENTERED: This the 20<sup>th</sup> day of March, 2012.