

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE: PENNY SMITH HODGE, C.N.A.**  
**Certificate No.: 1401-090437**

**ORDER**

Pursuant to §§ 2.2-4020, 54.1-110 and 54.1-2400(11) of the Code of Virginia (1950), as amended ("Code"), a formal administrative hearing was held before a panel of the Board of Nursing ("Board") on August 18, 2014, in Henrico County, Virginia, to inquire into evidence that Penny Smith Hodge may have violated certain laws and regulations governing nurse aide practice in Virginia. The case was presented by Wendy J. Deaner, Adjudication Specialist, Administrative Proceedings Division. James E. Rutkowski, Assistant Attorney General, was present as legal counsel for the Board. Ms. Hodge was not present nor was she represented by legal counsel. The proceedings were recorded by a certified court reporter.

Upon consideration of the evidence presented, the Board adopted the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1. Penny Smith Hodge, C.N.A. was issued Certificate No. 1401-090437 to practice as a nurse aide in the Commonwealth of Virginia on February 9, 2002. Said certificate is set to expire on February 28, 2015.
2. Based on Commonwealth's Exhibit 1 and the representation of Wendy Deaner, Adjudication Specialist for the Administrative Proceedings Division, the presiding officer ruled that adequate notice had been provided to Ms. Hodge and the hearing proceeded in her absence.
3. During the course of her employment with Richfield Recovery and Care Center, Salem, Virginia, on June 4, 2013, Ms. Hodge spoke inappropriately to a resident, and used excessive force while providing the resident care. Ms. Hodge forcefully used her knee to separate the resident's legs to stand her up. Once the resident was standing she urinated on herself. Ms. Hodge then called the resident a "pissy old

thing”.

4. On June 13, 2013, while providing care to another resident at Richfield Recovery and Care Center, Ms. Hodge failed to report a resident’s complaint of leg pain. It was determined that the resident suffered an injury to her right knee. The resident was assigned to Ms. Hodge but Ms. Hodge indicated multiple certified nurse aides were working with the resident at the time and she thought another certified nurse aide had reported the resident’s complaint. By her own admission, Ms. Hodge asked the resident to not report her because she was on probation for the June 4, 2013 incident and was afraid she would lose her job.

5. Ms. Hodge’s employment with Richfield Recovery and Care Center was terminated on June 14, 2013.

6. On her application for employment with English Meadows Senior Living Community, Christiansburg, Virginia, dated June 17, 2013, Ms. Hodge failed to disclose her termination from Salem Health and Rehab, Salem, Virginia and Ridgewood Gardens, Salem, Virginia.

7. On her application for employment with Commonwealth Assisted Living, LLC, Stay at Home Personal Care, Norfolk, Virginia, dated June 24, 2013, Ms. Hodge failed to disclose her termination from Salem Health and Rehab and Ridgewood Gardens.

8. Ms. Hodge’s employment with Salem Health and Rehab was terminated on February 21, 2013, for a violation of policy after she was observed going through a sharps container.

9. Ms. Hodge’s employment with Ridgewood Gardens was terminated on April 24, 2008, after a positive drug screen for marijuana.

### CONCLUSIONS OF LAW

The Board concludes that:

1. Finding of Fact No. 3 constitutes a violation of §54.1-3007 (2), (5) and (8) of the Code of Virginia, 1950, as amended (“Code”), and 18 VAC 90-25-100(2)(e) of the Regulations Governing Certified

Nurse Aides ("Regulations").

2. Findings of Fact Nos. 6 and 7 constitute a violation of §54.1-3007(2) of the Code and 18 VAC 90-25-100(2)(d) of the Regulations.

3. Finding of Fact No 3 and Conclusion of Law No. 1 constitute a finding of Abuse pursuant to 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D) of the Code of Federal Regulations.

**ORDER**

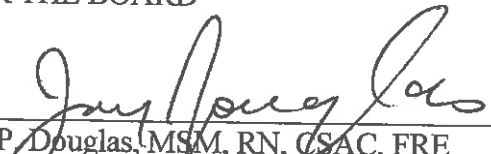
WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS as follows:

1. Certificate No. 1401-090437, issued to Penny Smith Hodge, C.N.A., to practice as a certified nurse aide in the Commonwealth of Virginia, is hereby REVOKED.

2. A finding of Abuse shall be ENTERED against Ms. Hodge in the Virginia Nurse Aide Registry pursuant to 42 CFR § 483.13(C)(1)(ii)(B) and 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D). This finding prohibits Ms. Hodge's employment as a certified nurse aide in any long-term care facility that receives Medicare or Medicaid reimbursement, according to 42 CFR § 483.13(c)(1)(ii)(B).

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.

FOR THE BOARD

  
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Jay P. Douglas, MSM, RN, CSAC, FRE  
Executive Director  
Virginia Board of Nursing

Certified True Copy

By   
Virginia Board Of Nursing

October 3<sup>RD</sup>, 2014  
ENTERED

**NOTICE OF RIGHT TO APPEAL**

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 days from the date you are served with this Order in which to appeal this decision by filing a Notice of Appeal with Jay P. Douglas, MSM, RN, CSAC, FRE, Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. The service date shall be defined as the date you actually received this decision or the date it was mailed to you, whichever occurred first. In the event this decision is served upon you by mail, three days are added to that period.