

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE:           WENDY H. MARKS, R.N.  
                  License No.: 0001-119612**

**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 July 17, 2014, in Henrico County, Virginia, to inquire into evidence that Wendy H. Marks may have violated certain terms and conditions imposed on her, as set forth in the Order of the Board entered on April 5, 2012. The case was presented by Jan Willis, Adjudication Specialist, Administrative Proceedings Division. Charis A. Mitchell, Assistant Attorney General, was present as legal counsel for the Board. Ms. Marks was not present and was not 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 Conclusion of Law.

**FINDINGS OF FACT**

1. Wendy H. Marks, R.N., was issued License No. 0001-119612 to practice professional nursing in the Commonwealth of Virginia on August 29, 1990. Her primary state of residence is Virginia.
2. Based on the representation of Jan Willis, Adjudication Specialist, and Commonwealth's Exhibit #1, the Notice of Formal Hearing and Statement of Particulars and Affidavit of Mailing, the presiding officer ruled that adequate notice was provided to the respondent and the hearing proceeded in her absence.
3. Ms. Marks' license was mandatorily suspended by the Department of Health Professions on November 2, 2011. By Order of the Board entered April 5, 2012, Ms. Marks' application for reinstatement was denied and she was continued on indefinite suspension, with the suspension stayed contingent upon Ms. Marks'

participation in the Health Practitioners' Monitoring Program ("HPMP") and compliance with its terms and conditions. Ms. Marks was also reprimanded in the Board's April 5, 2012 Order. Ms. Marks signed a participation contract with the HPMP on March 30, 2012.

4. On February 17, 2014, Ms. Marks left a voice mail message with the HPMP stating she wished to resign from the HPMP. Ms. Marks was informed verbally and by certified mail that she would need to submit a resignation letter and remain compliant until her resignation was processed. She stopped calling the test line on March 4, 2014, and did not provide a resignation letter as requested.

5. Ms. Marks was dismissed from the HPMP on May 16, 2014 for non-compliance with the toxicology screening program. She tested positive for alcohol and/or non-prescribed drugs, including Phenobarbital, butalbital, morphine, and/or codeine, on July 2, 2012, November 21, 2012 and January 11, 2013. She missed calls to the toxicology screen test line on October 30, 2013, and February 27, 2014. In addition, Ms. Marks failed to report to the HPMP a prescription for hydrocodone filled on June 27, 2013.

6. Ms. Marks has not worked as a professional nurse for over two years.

7. On June 3, 2014, the Board summarily rescinded the stay of suspension of Ms. Marks' license after she was dismissed from the HPMP.

### CONCLUSION OF LAW

The Board concludes that Finding of Fact No. 5 constitutes a violation of Term No. 6 of the Order entered April 5, 2012.

### ORDER

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

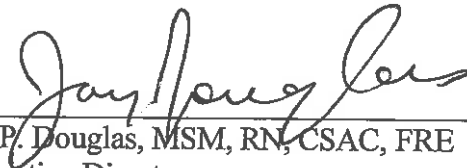
1. Wendy H. Marks, R.N. is hereby REPRIMANDED.
2. The license of Wendy H. Marks, R.N. shall be CONTINUED on INDEFINITE SUSPENSION for a period of not less than two years. At such time as she shall petition the Board for reinstatement of her

license, an administrative proceeding will be convened to determine whether she is able to return to the safe and competent practice of professional nursing.

3. This Order shall be applicable to Ms. Marks' multistate licensure privileges, if any, to practice professional nursing in the Commonwealth of Virginia.

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



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

August 6<sup>TH</sup>, 2014

ENTERED

Certified True Copy

By   
Virginia Board Of Nursing

**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.