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VA BD OF NURSING

COMMONWEALTH of VIRGINIA

Dianne L. Reynolds-Cane, M.D.
Director

Department of Health Professions
Perimeter Center
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Henrico, Virginia 23233-1463

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

January 13, 2014

Cheryl Dean McDowney
206 Third Street
Colonial Beach, VA 22443

CERTIFIED MAIL

DUPLICATE COPY
VIA FIRST CLASS MAIL

DATE 1/13/14

RE: Certificate No.: 1401-036121

Dear Ms. McDowney:

Pursuant to Section 54.1-2409 of the Code of Virginia (1950), as amended, ("Code"), you are hereby given notice that your certification to practice as a certified nurse aide in the Commonwealth of Virginia has been mandatorily suspended by the enclosed Order entered January 13, 2014. 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 certificate 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 certificate, 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 certificate shall require the affirmative vote of three-fourths of the members of the Board of Nursing present at the hearing.

Should you wish to petition the Board of Nursing for reinstatement of your certificate, contact Jay P. Douglas, Executive Director, at the above address or (804) 367-4639.

Sincerely,

Dianne L. Reynolds-Cane, M.D., Director
Department of Health Professions

Enclosures
Case #154335

VIRGINIA:

BEFORE THE DEPARTMENT OF HEALTH PROFESSIONS

IN RE: CHERYL DEAN MCDOWNEY, C.N.A.
Certificate No.: 1401-036121

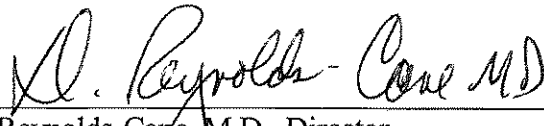
ORDER

In accordance with Section 54.1-2409 of the Code of Virginia (1950), as amended, ("Code"), I, Dianne L. Reynolds-Cane, M.D., Director of the Virginia Department of Health Professions, received and acted upon evidence that the certificate of Cheryl Dean McDowney, C.N.A., to practice as a certified nurse aide in the State of Maryland was revoked by a Final Order of Revocation of Certified Nursing Assistant Certificate dated March 24, 2009. A certified copy of the Final Order of Revocation of Certified Nursing Assistant Certificate (with attachment) is attached to this Order and 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 certificate of Cheryl Dean McDowney, C.N.A., to practice as a certified nurse aide in the Commonwealth of Virginia be, and hereby is, SUSPENDED.

Upon entry of this Order, the certificate of Cheryl Dean McDowney, C.N.A., will be recorded as suspended. Should Ms. McDowney seek reinstatement of her certificate 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 certificate prior to issuance of her certificate 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.



Dianne L. Reynolds-Cane, M.D., Director
Department of Health Professions

ENTERED: 1-13-14



COMMONWEALTH of VIRGINIA

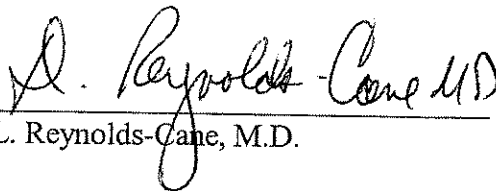
Dianne L. Reynolds-Cane, M.D.
Director

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CERTIFICATION OF DUPLICATE RECORDS

I, Dianne L. Reynolds-Cane, M.D., Director of the Department of Health Professions, hereby certify that the attached Final Order of Revocation of Certified Nursing Assistant Certificate (with attachment) dated March 24, 2009, regarding Cheryl Dean McDowney, C.N.A., are true copies of the records received from the Maryland Board of Nursing.



Dianne L. Reynolds-Cane, M.D.

Date: 1-13-14

IN THE MATTER OF
CHERYL MCDOWNEY
Certificate # A00074692

* BEFORE THE MARYLAND
* BOARD OF NURSING
* OAG # 08-BP-340

* * * * *

**FINAL ORDER OF REVOCATION OF CERTIFIED NURSING ASSISTANT
CERTIFICATE**

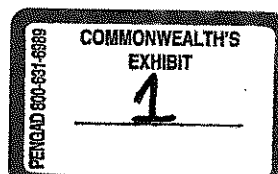
BACKGROUND

The Maryland Board of Nursing (the "Board") hereby **REVOKES** the certificate of Cheryl McDowney ("Respondent"), d/o/b: 8/9/1972, Certificate Number A00074692, pursuant to the Administrative Procedure Act ("the APA"), Md. State Government Code Ann. ("State Govt.") § 10-226(c)(1) (2004) and the Maryland Nurse Practice Act (the "Nurse Practice Act"), Md. Health Occupations Code Ann. ("Health Occ.") §§ 8-101 *et seq.* (2008). The pertinent provisions of the Nurse Practice Act, § 8-6A-10(a) under which this Order is based, are as follows:

(a) *Penalties.* – Subject to the hearing provisions of § 8-317 of this title, the Board may...reprimand any certificate holder, place any certificate holder on probation, or suspend or revoke the certificate of a certificate holder if the... certificate holder:

- (9) Has violated any order, rule, or regulation of the Board relating to the practice or certification of a nursing assistant or medication technician.

On December 12, 2008, the Board forwarded a copy of this Final Order of Revocation of Certified Nursing Assistant Certificate (the "Order"), unexecuted, to Respondent by certified and regular mail to Respondent's last known address registered with the Board. Included with the unexecuted Order was a letter from the Board informing Respondent that pursuant to the Nurse Practice Act and the APA, she



was entitled to an evidentiary hearing before the Board could revoke her certificate. Respondent was also informed that she had thirty (30) days from the date of the letter included with the unexecuted Order to request an evidentiary hearing. Additionally, Respondent was placed on notice that if a request for an evidentiary hearing was not received within the thirty (30) days, this Order would be executed as written. Respondent failed to submit a written request for an evidentiary hearing.

FINDINGS OF FACT

1. Respondent's certification is active and on probation. The certification is scheduled to expire on August 28, 2010.

2. By application dated March 4, 2004, Respondent requested that the Board grant her a certified nursing assistant certification ("CNA"). On her application, Respondent indicated that discipline had been taken against her CNA in Virginia.

3. On February 1, 1996, Respondent received a reprimand from the Virginia Board of Nursing due to her inappropriate interactions with a psychiatric patient. On or about February 24, 1995, while working as a CNA at Heritage Hall Nursing Home, in King George, Virginia, Respondent drew her fist back and told a schizophrenic patient that if he (the patient) hit her, she would hit him back.

4. On August 23, 2005, Respondent entered into a two-year-minimum consent agreement with the Board, agreeing to abide by the Board's Order of Probation, which granted her a probationary CNA subject to the following conditions:

- a. Arrange for the submission of written quarterly reports from her supervisor ("work-site reports");

- b. Submit written quarterly reports describing her activities as a CNA ("self-reports"); and
 - c. If she moves, notify the Board of her new address and phone number.
 5. On August 23, 2005, the Board mailed Respondent a copy of her executed Order of Probation and a cover letter, explaining that she was responsible for ensuring that the work-site and self-reports were submitted to the Board, beginning in September 2005 and every three months thereafter (December, March, and June) until the conclusion of the probation.
 6. Respondent failed to comply with the terms of her probationary order as follows:
 - a. 2006
 - i. Non-compliant with March, June, September, and December work-site reports;
 - ii. Non-compliant with March, June, September, and December self-reports
 - b. 2007
 - i. Non-compliant with March, June, September, and December work-site reports;
 - ii. Non-compliant with March, June, and September, self-reports. The Board received self-reports on August 14, 2007, October 11, 2007, and December 12, 2007. Of the received reports, only the December report was received in the month it was due.
 - c. 2008 (As of August 20, 2008)

- i. Non-compliant with March and June work site reports (the Board received a work site report on August 20, 2008)¹;
- ii. Non-compliant with March and June self reports (the Board received a self-report on August 20, 2008).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that Respondent violated H.O. § 8-6A-10(a), as follows:

- (9) Has violated any order, rule, or regulation of the Board relating to the practice or certification of a nursing assistant or medication technician.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 24th day of March 2009, by a majority vote of a quorum of the Board hereby:

ORDERED that Cheryl McDowney's certificate to practice as a Certified Nursing Assistant, Certificate Number A00074692, is hereby **REVOKED**; and it is further

ORDERED that this Order of Revocation is a Final Order of the Board; and it is further

ORDERED that this is a Final Order and is a public document pursuant to the Maryland Public Information Act, State Govt. Code Ann. § 10-611, *et seq.* (2004 & Supp. 2006) and that for purposes of public disclosure, the Board may disclose this

¹ The work-site report indicated that Respondent had been working at Civista Medical Center for the past five years.

document at its discretion to, including but not limited to, any national reporting bank or other entity to whom the Board is mandated to report.



Nancy Adams, MBA, RN
President
Maryland Board of Nursing

NOTICE OF RIGHT TO APPEAL

Pursuant to Maryland State Govt. Code Ann. § 10-222 (c), Respondent has a right to take a direct judicial appeal of a final decision by the Board. A Petition for Judicial Review must be filed within thirty (30) days of Respondent's receipt of this executed Order and shall be made as provided for judicial review of a final decision in the APA, codified at S.G. §§ 10-201 *et seq.* and Title 7, Chapter 200 of the Maryland Rules.

IN THE MATTER OF	*	BEFORE THE
	*	
CHERYL McDOWNEY	*	MARYLAND BOARD
	*	
CNA Applicant	*	OF NURSING

ORDER OF PROBATION

BACKGROUND

By application dated March 4, 2004, Cheryl McDowney (the "Applicant") requested that the Maryland Board of Nursing (the "Board") grant her a certified nursing assistant certification. The Applicant disclosed that she had received discipline on her certification in another state, which violated §8-6A-10(a)(3) of the Nurse Practice Act, Title 8, Health Occupations Article of the Maryland Annotated Code, (the "Act"). By signing the consent order set forth below, the Applicant consents to waive her right to a hearing and to the probation set forth below.

FINDINGS OF FACT

Based on the application record, the Board finds that:

1. By application dated March 4, 2004, the Applicant applied to the Board for certification as a nursing assistant with a geriatric nursing assistant designation by waiver from Virginia. On her application for certification as a nursing assistant with a geriatric nursing assistant designation, the Applicant indicated that she had received discipline on her certification in another state.

2. On February 1, 1996, the Applicant received a reprimand from the Virginia Board of Nursing. The reprimand was based on the Applicant inappropriately telling a schizophrenic patient that if he hit her, she would hit him back, while she drew back her fist.

3. The Applicant submitted a July 2003 performance evaluation for Board consideration.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds that the Applicant violated § 8-6A-10(a):

(3) Is disciplined by a licensing, military, or disciplinary authority in this State or in any other state or country or convicted or disciplined by a court in this State or any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; to-wit:

(13) Has acted in a manner inconsistent with the health or safety of a person under the applicant or certificate holder's care;

(14) Has practiced as a nursing assistant in a manner which fails to meet generally accepted standards for the practice of a nursing assistant; and

(15) Has physically, verbally, or psychologically abused, neglected, or otherwise harmed a person under the applicant or certificate holder's care.

Based on the foregoing Findings of Fact, the Board finds that probationary certification is appropriate at this time.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 23rd day of August 2005, by a majority vote of a quorum of the Maryland Board of Nursing:

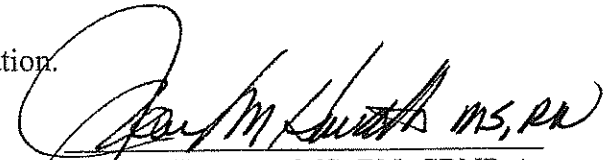
ORDERED that Cheryl McDowney is **GRANTED** a probationary nursing assistant certification to practice in the State of Maryland, with the provision that Applicant is hereby placed on **PROBATION** subject to the following conditions:

1. The certificate issued to the Applicant shall be marked with the word "Probationary".
2. The Applicant shall immediately notify all nursing assistant employers of the probationary status of her certificate and arrange for all employers to submit, in writing, that they have reviewed this Order;
3. The Applicant shall arrange for her supervisor at the Applicant's place of employment to submit written quarterly reports to the Board evaluating the Applicant's practice. An unsatisfactory report will be considered a violation of this Order;
4. The Applicant shall submit to the Board written quarterly reports describing her activities as a CNA;
5. In the event the Applicant applies for certification as a geriatric nursing assistant ("GNA"), that certification shall also be subject to this probationary order;
6. In the event the Applicant moves permanently or temporarily, the Applicant shall notify the Board of the new address and phone number within three days of the move;
7. The Applicant shall obey all state and federal laws; and be it further

ORDERED that any violation of this Order provides a basis for the Board to revoke its probationary grant of certification or take other action against Applicant's certification; and be it further

ORDERED that after two (2) years from the effective date of this Order, the Applicant may request that the Applicant's probationary status be terminated and that the certification to practice as a certified nursing assistant be reinstated without conditions, provided that the Applicant has been compliant with the probationary terms of this order and safely employed as a certified nursing assistant for at least nine months immediately preceding the petition for reinstatement. At that time, if the Board determines that a termination of probation would not be appropriate,

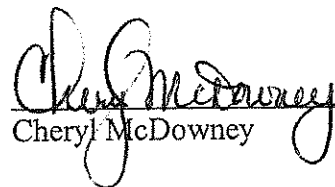
the Board may impose other conditions of probation.


Joan M. Hovatter, MS, RN, CRNP-A
President

CONSENT

By this Consent, I hereby admit the truth of the Findings of Fact, and accept and submit to the foregoing Order and its conditions. I acknowledge that if I choose not to sign this consent order, I will have an opportunity for a hearing with regard to denial of my application. I acknowledge the validity of the Order as if made after a hearing in which I would have had the right to legal counsel authorized to practice in Maryland, to confront witnesses, to give testimony, to request subpoenas for witnesses and evidence and to introduce testimony and evidence on my own behalf, to agree to evidence unless otherwise prohibited by law, and to all other substantive and procedural protections provided by law and I waive any appeal right under Maryland Code Annotated, State Government Article §10-222. I also acknowledge that by my failure to abide by the conditions of the Order, I may suffer additional disciplinary action against my license to practice nursing in the State of Maryland, including revocation, suspension, probation, fines and reprimands. I understand that the Board, in its discretion, may publish this Order.

I sign this Order after having an opportunity to consult with an attorney, without reservation, and I fully understand its meaning.


Cheryl McDowney

STATE OF Virginia

CITY/COUNTY OF Westmoreland

I HEREBY CERTIFY that on this 21st day of July, 2005

before me, Notary Public of the State and City/County aforesaid, Cheryl McDowney personally appeared, and made oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

SEAL

My Commission Expires: 9/30/07

Alberta R. Byrd
Notary Public