

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE: ANN MARIE SMITH, C.N.A., R.M.A.**  
**Certificate No.: 1401-122930**

**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 September 16, 2013, in Henrico County, Virginia, to inquire into evidence that Ann Marie Smith, C.N.A., R.M.A., may have violated certain laws and regulations governing nurse aide practice in Virginia. The case was presented by Tammie D. Jones, Adjudication Specialist, Administrative Proceedings Division. Charis A. Mitchell, Assistant Attorney General, was present as legal counsel for the Board. Ms. Smith 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 Conclusions of Law.

**FINDINGS OF FACT**

1. Ann Marie Smith, C.N.A., R.M.A., was issued Certificate No. 1401-122930 to practice as a nurse aide in the Commonwealth of Virginia on February 15, 2008. Said certificate expires on February 28, 2014. Ms. Smith was issued Registration No. 0031-000679 to practice as a medication aide in the Commonwealth of Virginia on September 9, 2008. Said registration expires on February 28, 2014.
2. Based upon the representations of Tammie Jones and Commonwealth's Exhibit #1, the Notice of Formal Hearing and Affidavit of Mailing, the presiding officer ruled that adequate notice was provided to the respondent and the hearing proceeded in her absence.
3. During the course of her employment with Timberview Crossing Assisted Living Facility, Timberville, Virginia, on January 19, 2013, Ms. Smith diverted a tablet of hydrocodone (Schedule III), from

Resident A's supply, replaced it with a potassium tablet and falsely documented administration in the resident's medication administration record.

4. Ms. Smith's employment was suspended pending an internal investigation at which time she resigned from her position.

5. Ms. Smith has a criminal case pending in the Rockingham/Harrisonburg General District Court of Virginia, for 11 counts of obtaining drugs by fraud.

### **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 and 18 VAC 90-25-100(2)(c) and (e) of the Regulations Governing Certified Nurse Aides.

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

### **ORDER**

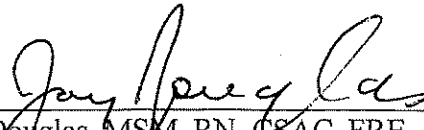
WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS as follows:

1. Certificate No. 1401-122930 issued to Ann Marie Smith, C.N.A., R.M.A., to practice as a nurse aide in the Commonwealth of Virginia, is hereby REVOKED.

2. A finding of misappropriation of patient property shall be ENTERED against Ms. Smith 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. Smith'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



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

October 8<sup>th</sup>, 2012

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 M.S.M., R.N., C.S.A.C., F.R.E., 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.

**Certified True Copy**

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**Virginia Board of Nursing**