

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE:**

**ROBERT J. TALMADGE, L.P.N.**

**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 March 21, 2011, in Henrico County, Virginia, to inquire into evidence that Robert J. Talmadge, L.P.N., may have violated certain laws and regulations governing practical nursing practice in Virginia. The case was presented by James E. Schliessmann, Assistant Attorney General. Howard M. Casway, Senior Assistant Attorney General, was present as legal counsel for the Board. Mr. Talmadge was 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. Robert J. Talmadge, L.P.N., was issued License No. 0002-068966 to practice practical nursing in the Commonwealth of Virginia on June 15, 2004. Said license expires on May 31, 2011. His primary state of residence is Virginia.
2. During the course of his employment with Five Star Quality Care, Inc., while assigned to Dominion Village Assisted Living Facility, Poquoson, Virginia, in January, 2010, Mr. Talmadge made an inappropriate comment to Resident B in that he asked the resident whether she had ever made naked snow angels and stated, "it will make your titties get hard." As a result of this and a second allegation of sexual misconduct, Mr. Talmadge's employment was terminated.

3. During the course of his employment with Newport News Nursing and Rehabilitation Center, Newport News, Virginia:

a. In two separate incidents, in July, 2004, and October, 2004, Resident C alleged that Mr. Talmadge inappropriately touched her breasts and had inappropriate conversations with her regarding his personal life.

b. On October 14, 2004, Mr. Talmadge made an inappropriate comment to Resident D in front of the resident's family members and other residents in that he told the resident that if she went home and hurt herself, he was going to spank her when she returned.

4. On the application for employment with Five Star, dated April 27, 2009, Mr. Talmadge failed to list his reason for leaving employment with Newport News Nursing and Rehabilitation Center, where his employment was terminated on November 1, 2004, due to the above-referenced incident with Resident C. He also failed to list his prior employment with and termination from Envoy of Williamsburg, Virginia, where his employment was terminated in March, 2009, for a medication error. He also answered "no" to the question, "have you ever been convicted of a misdemeanor," when, in fact, he was convicted of improper telephone communications on December 4, 1997, in the United States District Court, Western District of Louisiana.

5. On the application for employment with Care Advantage, Newport News, Virginia, dated March 16, 2009, Mr. Talmadge indicated that his reason for leaving employment with Newport News Nursing and Rehabilitation was "took new position with N.N. City," when, in fact, his employment was terminated as referenced above. Mr. Talmadge also failed to list his employment with and termination from Envoy of Williamsburg. Additionally, Mr. Talmadge answered "no" to the question "have you ever been discharged or asked to resign from employment," when, in fact, he had been terminated from Newport News Nursing and Rehabilitation and Envoy of Williamsburg. He also answered "no" to the question "have you ever been convicted of, plead guilty to, or pled nolo contendere to a felony or a misdemeanor in Virginia or

outside of the jurisdiction of Virginia,” when, in fact he had been convicted in the United States District Court, Western District of Louisiana.

### **CONCLUSIONS OF LAW**

The Board concludes that:

1. Finding of Fact No. 2 constitutes a violation of § 54.1-3007(2), (5) and (8) of the Code and 18 VAC 90-20-300(A)(2)(f) of the Regulations Governing the Practice of Nursing (“Regulations”).
2. Finding of Fact No. 3(a) constitutes a violation of § 54.1-3007(5) of the Code.
3. Finding of Fact No. 3(b) constitutes a violation of § 54.1-3007(2), (5) and (8) of the Code and 18 VAC 90-20-300(A)(2)(f) of the Regulations.
4. Findings of Fact Nos. 4 and 5 constitute a violation of § 54.1-3007(2) and (3) of the Code and 18 VAC 90-20-300(A)(2)(e) of the Regulations.

### **ORDER**

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

1. Robert J. Talmadge, L.P.N., is hereby REPRIMANDED.
2. Mr. Talmadge is hereby placed on INDEFINITE PROBATION for not less than two years of actual nursing employment subject to the following terms and conditions:
  - a. The period of probation shall begin on the date that this Order is entered and shall continue Indefinitely. After two years of active employment as a licensed practical nurse, Mr. Talmadge may request that the Board end this probation.
  - b. Mr. Talmadge shall inform the Board in writing within ten days of the date he begins nursing practice, or changes employment, or if any interruption in nursing practice occurs. Additionally, Mr. Talmadge shall provide the name and address of each employer to the Board.
  - c. Mr. Talmadge shall inform his current nursing employer and each future

nursing employer that the Board has placed him on probation and shall provide each employer with a complete copy of this Order. If Mr. Talmadge is employed through a staffing agency, he shall inform his supervisor in each facility where assigned that he is on probation.

d. Performance Evaluations shall be provided, at the direction of Mr. Talmadge, by all nursing employer(s), as provided by the Compliance Division. The first report must be received in the Board office no later than 60 days from the date this Order is entered. Subsequent reports must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends.

e. Mr. Talmadge shall provide evidence that he has completed the National Council of State Boards of Nursing ("NCSBN") online course Respecting Professional Boundaries, within 30 days of entry of the Order.

f. Mr. Talmadge shall practice nursing only in a structured, supervised employment setting satisfactory to the Board for the first two years after being placed on probation. This employment setting shall provide on-site supervision by a physician, professional nurse, or licensed practical nurse, who works the same shift, works on the same level of the building, and holds an unrestricted license. For all current nursing employment, and before beginning or changing nursing employment during this period, Mr. Talmadge shall have current and all prospective employers provide a written description of the employment setting to the Board office for approval.

g. Mr. Talmadge shall provide all current and future treating practitioners with a complete copy of this Order and shall execute an Authorization for Disclosure of Information form providing for unrestricted communication between the Board and any court-appointed probation or parole officers and any consultants designated by the Board.

h. Mr. Talmadge shall submit quarterly "Self-Reports" which include a current address, telephone number, and verification of all current employment. These reports shall also include any changes in employment status. The first report must be received in the Board office no later than 60 days from the date this

Order is entered. Subsequent reports must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends.

i. Mr. Talmadge shall return all copies of his license to practice as a licensed practical nurse to the Board office within ten days of the date of entry of this Order, along with a payment of a fee of \$5.00. Upon receipt, the Board shall issue a new license marked "Valid in Virginia Only; Probation with Terms."

j. This Order is applicable to Mr. Talmadge's multistate licensure privileges, if any, to practice practical nursing in the Commonwealth of Virginia. For the duration of this Order, Mr. Talmadge shall not work outside of the Commonwealth of Virginia pursuant to a multistate licensure privilege without the written permission of the Virginia Board of Nursing and the Board of Nursing in the party state where he wishes to work. Any requests for out of state employment should be directed, in writing, to the Executive Director of the Board.

k. Mr. Talmadge shall maintain a course of conduct in his capacity as a practical nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

3. Any violation of the terms and conditions of this Order or of any law or regulation affecting the practice of nursing in the Commonwealth of Virginia shall constitute grounds for the suspension or revocation of the license of Robert J. Talmadge, L.P.N., and an administrative proceeding shall be convened to determine whether such license shall be suspended or revoked.

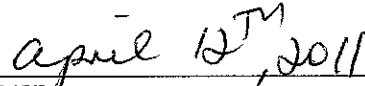
Pursuant to §§ 2.2-4023 and 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as public record and shall be made available for public inspection or copying on request.

FOR THE BOARD



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Jay P. Douglas, R.N., M.S.M., C.S.A.C.  
Executive Director  
Virginia Board of Nursing



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