

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: DENISE MICHELLE SMITH BAXTER, C.N.A.
Certificate Number: 1401-112459
Case Number: 174632

RATIFICATION AND ORDER

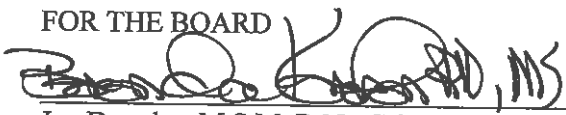
On May 17, 2017, a panel of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Denise Michelle Smith Baxter, C.N.A., was not present nor was she represented by legal counsel.

In consideration whereof, the Board of Nursing ACCEPTS the attached Recommended Findings of Fact and Conclusions of Law of the Agency Subordinate and ADOPTS the Recommended Order in its entirety.

Pursuant to Virginia Code § 54.1-2400.2, 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.

Pursuant to Virginia Code § 54.1-2400(10), Ms. Baxter may, not later than 5:00 p.m., on June 26, 2017, notify Jay 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, in writing that she desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

FOR THE BOARD



for Jay Douglas, M.S.M, R.N., C.S.A.C., F.R.E.
Deputy Executive Director
Virginia Board of Nursing

ENTERED AND MAILED ON:

May 24, 2017

This Order shall become final on June 26, 2017, unless a request for a formal administrative hearing is received as described above.

Certified True Copy

By 

Virginia Board Of Nursing

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: DENISE MICHELLE SMITH BAXTER, C.N.A.
Certificate Number: 1401-112459
Case Number: 174632

REPORT AND RECOMMENDATION OF AGENCY SUBORDINATE

Jurisdiction and Procedural History

Pursuant to Virginia Code §§ 2.2-4019 and 54.1-2400(10), Nancy Durrett, R.N., M.S.N., serving as Agency Subordinate of the Virginia Board of Nursing (“Board”), held an informal conference on March 9, 2017 in Henrico County, Virginia, to inquire into evidence that Denise Michelle Smith Baxter, C.N.A., may have violated certain laws and regulations governing the practice of as a nurse aide in the Commonwealth of Virginia.

Ms. Baxter appeared at this proceeding and was not represented by legal counsel.

Upon consideration of the evidence, the Agency Subordinate makes the following Findings of Fact and Conclusions of Law and recommends that the Board adopt the following Order.

Notice

By letter dated February 2, 2017, the Board sent a Notice of Informal Conference (“Notice”) to Ms. Baxter notifying her that an informal conference would be held on March 9, 2017. The Notice was sent by certified and first class mail to the legal address of record on file with the Board.

Recommended Findings of Fact and Conclusions of Law

1. Denise Michelle Smith Baxter, C.N.A., was issued Certificate Number 1401-112459 to practice as a nurse aide on January 21, 2006, which is scheduled to expire on January 31, 2018. At all times relevant to the findings herein, said certificate was in full force and effect.

2. By Order of the Board entered March 28, 2008, Ms. Baxter received a reprimand based upon findings that in 2007 she was convicted of misdemeanor larceny in the General District Court of Essex County, Virginia. The Board also made a finding that in 2007, Ms. Baxter's employment with Interim Healthcare, Fredericksburg, Virginia, was terminated following a patient report of two tablets missing from the patient's prescription medication.

3. Ms. Baxter violated Virginia Code § 54.1-3007(2) and (5) and 18 VAC 90-25-100(2)(c) and (h) of the Regulations Governing Certified Nurse Aides ("Regulations") in that during the course of her employment at a private residence in Montross, Virginia, on June 19, 2016:

a. She diverted nine or ten Ativan (lorazepam, C-IV) pills from her client's personal stock, for her own personal and unauthorized use.

b. As a result of her diversion, she pled guilty to and was convicted of misdemeanor possession of a controlled substance in the Westmoreland County, Virginia, Circuit Court on October 27, 2016.

4. Ms. Baxter violated Virginia Code § 54.1-3007(4) in that on October 27, 2016, she pled guilty to and was convicted of misdemeanor larceny, a crime of moral turpitude, in the Westmoreland County Circuit Court.

5. Ms. Baxter violated Virginia Code § 54.1-3007(6) in that she is unsafe to practice as a nurse aide due to substance abuse. Ms. Baxter was addicted to opioid medications for three years and has abused oxycodone (C-II) that she obtained from friends.

6. At the informal conference, Ms. Baxter stated that she first began taking oxycodone when she was prescribed the drug after a surgical procedure and again following a car accident. She stated that when she was taking up to 15 oxycodone pills per day, she realized her use had gotten out of control and sought treatment.

7. Ms. Baxter stated that she has not had opiates since October 7, 2016. She is currently receiving substance abuse treatment, attends Narcotics Anonymous meetings twice per week, and receives treatment from a suboxone clinic. She stated that she submits to regular drug screenings through the suboxone clinic and her probation officer. She indicated that she has been in contact with HPMP to inquire about entering the program.

8. Ms. Baxter stated at the informal conference that she has done private duty work in Chesapeake, Virginia, but is not currently employed as a nurse aide.

Recommended Order

Based on the foregoing Findings of Fact and Conclusions of Law, the Agency Subordinate recommends that the Board issue an Order as follows:

1. The Board shall TAKE NO ACTION at this time, contingent upon Ms. Baxter's compliance with the following terms and conditions:

a. Denise Michelle Smith Baxter, C.N.A., shall enter into the Virginia Health Practitioners' Monitoring Program ("HPMP") and shall provide to the Board proof of entry into a Contract with the HPMP within 60 days of the date this Order is entered. Thereafter, Ms. Baxter shall comply with all terms and conditions of the HPMP for the period specified by the HPMP.

b. Upon receipt of evidence of Ms. Baxter's participation in and successful completion of the terms specified by the HPMP, the Board, at its discretion, may waive Ms. Baxter's appearance before the Board and conduct an administrative review of this matter, at which time she may be issued an unrestricted certificate.

2. Ms. Baxter shall comply with all laws and regulations governing the practice as a nurse aide in the Commonwealth of Virginia.

3. Failure to comply with the terms and conditions of this Order shall constitute grounds for an administrative proceeding before the Board.

Reviewed and approved on April 4, 2017
By Nancy Durrett, R.N., M.S.N.
Agency Subordinate