

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: HELEN SINCLAIR, C.N.A.
Certificate No.: 1401-039024**

ORDER

In accordance with §§ 2.2-4019, 2.2-4021 and 54.1-2400(10) of the Code of Virginia (1950), as amended ("Code"), an informal conference was conducted on behalf of the Board of Nursing ("Board") on September 9, 2014, in Henrico County, Virginia. Helen Sinclair, C.N.A., was not present nor was she represented by legal counsel. Nancy Durrett, R.N., M.S., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On November 19, 2014, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Sinclair was not present nor was she represented by legal counsel.

Based upon its review of the Recommended Decision of the Agency Subordinate, the Board makes the following Findings of Fact and Conclusions of Law and issues the following Order.

FINDINGS OF FACT

1. Helen Sinclair, C.N.A., was issued Certificate No. 1401-039024 to practice as a nurse aide in Virginia on July 17, 1993. The certificate is scheduled to expire on July 31, 2015.
2. By letter dated August 18, 2014, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Sinclair notifying her that an informal conference would be held on September 9, 2014. The Notice was sent by certified and first class mail to 1614 Eight Street SE, Roanoke, Virginia 24013, the address of record on file with the Board of Nursing. According to the United States Postal Service, the Notice sent by certified mail has been available to pick-up since August 26, 2014. As of September 9, 2014, the Notice sent by first class mail had not been returned to the Board Office. The Agency Subordinate concluded that adequate notice was provided to Ms. Sinclair and the informal conference proceeded in her absence.
3. On March 24, 2014, during the course of her employment with Hermitage of Roanoke, Roanoke,

Virginia, while Ms. Sinclair assisted Resident A with her shower, Ms. Sinclair dropped Resident A and the resident's leg got twisted beneath her. Further, Ms. Sinclair failed to report the incident to the charge nurse when it happened, but did so later in the day.

4. Ms. Sinclair enlisted the assistance of another certified nurse aide to help her get Resident A off the floor without having the resident assessed by the nurse.

5. When Resident A, who is alert and oriented times two, requested pain medication for her leg, she reported that Ms. Sinclair dropped her. Resident A sustained a femoral fracture as a result of the incident.

6. Ms. Sinclair denied that she dropped Resident A. She stated that she lowered the resident to the floor when the resident became unsteady.

7. On March 25, 2014, Ms. Sinclair's employment with Hermitage in Roanoke was terminated.

CONCLUSIONS OF LAW

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)(e) of the Regulations Governing Certified Nurse Aides.

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

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. Certificate No. 1401-039024 of Helen Sinclair to practice as a nurse aide is INDEFINITELY SUSPENDED.

2. The certificate will be recorded as suspended and no longer current.

3. A Finding of Neglect shall be ENTERED against Ms. Sinclair 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. Sinclair'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).

4. Since this Finding of Neglect was based on a singular occurrence, Ms. Sinclair is eligible to petition the Board for removal of the Finding of Neglect one time, after a period of one year from the date of entry of this Order, if she can demonstrate that her employment and personal history do not reflect a pattern of abusive behavior or neglect.

Pursuant to § 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.

Since Ms. Sinclair failed to appear at the informal conference, this Order shall be considered final. Ms. Sinclair has the right to appeal this Order directly to the appropriate Virginia circuit court. As provided by Rule 2A:2 of the Supreme Court of Virginia, Ms. Sinclair has (30) thirty days from the date of service (the date she actually received this decision or the date it was mailed to her, whichever occurred first) within 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, at Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233. In the event that this decision is served by mail, three days are added to that period.

FOR THE BOARD



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

Entered: December 1, 2014

Certified True Copy

By [Signature]

Virginia Board Of Nursing