

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: MARY ELIZABETH BARR NESTER, C.N.A.

Certificate Number: 1401-041522

Case Number: 172098

RATIFICATION AND ORDER


On March 22, 2017, a panel of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mary Elizabeth Barr Nester, 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.

Since Ms. Nester failed to appear at the informal conference, this Order shall be considered final. Ms. Nester 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. Nester has 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.

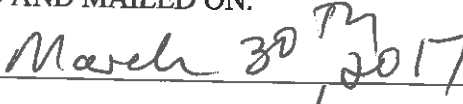
FOR THE BOARD


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

Certified True Copy

By 
Virginia Board Of Nursing

ENTERED AND MAILED ON:


March 30th, 2017

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: MARY ELIZABETH BARR NESTER, C.N.A.
Certificate Number: 1401-041522
Case Number: 172098

REPORT AND RECOMMENDATION OF AGENCY SUBORDINATE

Jurisdiction and Procedural History

Pursuant to Virginia Code §§ 2.2-4019 and 54.1-2400(10), Nancy K. Durrett, R.N., M.S., serving as Agency Subordinate of the Virginia Board of Nursing (“Board”), held an informal conference on January 10, 2017, in Henrico County, Virginia, to inquire into evidence that Mary Elizabeth Barr Nester, C.N.A., may have violated certain laws and regulations governing the practice of nurse aides in the Commonwealth of Virginia.

Ms. Nester did not appear 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 December 7, 2016, the Board sent a Notice of Informal Conference (“Notice”) to Ms. Nester notifying her that an informal conference would be held on January 10, 2017. The Notice was sent by certified and first class mail to the legal address of record on file with the Board. Neither the certified mail nor the certified mail receipt was returned to the Board office. The Notice sent by first class mail was not returned to the Board office. Accordingly, the Agency Subordinate concluded that adequate notice was provided to Ms. Nester and the informal conference proceeded in her absence.

Recommended Findings of Fact and Conclusions of Law

1. Mary Elizabeth Barr Nester, C.N.A., was issued Certificate Number 1401-041522 to practice as a nurse aide on November 13, 1993, which expired on November 30, 2016. At all times relevant to the findings herein, said certificate was in full force and effect.

2. Mary Elizabeth Barr Nester, C.N.A., violated Virginia Code § 54.1-3007(5) and (8) in that during the course of her employment at Golden Living Center – Blue Ridge, Galax, Virginia, on February 2, 2016, Ms. Nester stole Resident A’s cellphone and made unauthorized phone calls on February 2 and 4, 2016, while the resident was in the hospital. This constitutes a Finding of Misappropriation of patient property pursuant to 42 CFR § 483.13(c)(1)(ii)(B) and 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D).

3. The resident’s daughter called the last phone number that was called while Resident A was in the hospital and the person who answered identified Ms. Nester as the person who had called her from that number. Ms. Nester’s employment was terminated after the facility investigation.

4. Ms. Nester did not respond to requests for an interview by the Department of Health Professions’ investigator.

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 right of Mary Elizabeth Barr Nester to renew her certificate to practice as a nurse aide in the Commonwealth of Virginia is REVOKED.

2. A Finding of Misappropriation of patient property shall be ENTERED against Mary Elizabeth Barr Nester 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 Mary Elizabeth Barr Nester’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).

Reviewed and approved on February 8, 2017
By Nancy K. Durrett, R.N., M.S.
Agency Subordinate