

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: JUAN CARLOS MONTALVO, L.P.N.
LicenseNumber: 0002-059404
Case Number: 169831

ORDER

JURISDICTION AND PROCEDURAL HISTORY

Pursuant to Virginia Code §§ 2.2-4020, 2.2-4024(F), and 54.1-2400(11), a panel of the Virginia Board of Nursing (“Board”) held a formal administrative hearing on September 21, 2016, in Henrico County, Virginia, to inquire into evidence that Juan Carlos Montalvo, L.P.N., may have violated certain laws and regulations governing the practice of practical nursing in the Commonwealth of Virginia.

Juan Carlos Montalvo, L.P.N., did not appear at this proceeding and was not represented by legal counsel.

NOTICE

By letter dated August 19, 2016, the Board sent a Notice of Formal Hearing (“Notice”) to Mr. Montalvo notifying him that a formal administrative hearing would be held on September 21, 2016. The Notice was sent by certified and first class mail to the legal address of record on file with the Board. The Notice sent by certified mail was delivered on August 22, 2016. The Notice sent by first class mail was not returned to the Board office. Accordingly, the panel Chair concluded that adequate notice was provided to Mr. Montalvo and the formal hearing proceeded in his absence.

Upon consideration of the evidence, the Board adopts the following Findings of Fact and Conclusions of Law and issues the Order contained herein.

FINDINGS OF FACT

1. On March 28, 2000, the Board issued License Number 0002-059404 to Juan Carlos Montalvo, L.P.N. to practice practical nursing in the Commonwealth of Virginia. Said license is scheduled to expire on May 31, 2017. At all times relevant hereto, said license was in full force and effect. Mr. Montalvo's primary state of residence is Virginia.

2. During the course of his employment with the Transitional Care Unit at Bon Secours DePaul Medical Center, Norfolk, Virginia ("DePaul TCU"), Mr. Montalvo engaged in inappropriate sexual contact and/or sexual abuse of residents as follows:

a. On August 17, 2015, Mr. Montalvo touched 98-year-old Resident B's breasts for no legitimate therapeutic reason.

b. On September 2, 2015, Mr. Montalvo kissed 90-year-old Resident C in the mouth and rubbed her breasts.

c. On November 8, 2015, Mr. Montalvo hugged and kissed 82-year-old Resident D on the lips.

3. Mr. Montalvo's employment with DePaul TCU was terminated on November 10, 2015.

CONCLUSIONS OF LAW

Finding of Fact No. 2(a) through (c) constitutes a violation of Virginia Code § 54.1-3007(2), (5) and (8) and 18 VAC 90-20-300 (A)(2)(f) and (l) of the Regulations Governing the Practice of Nursing.

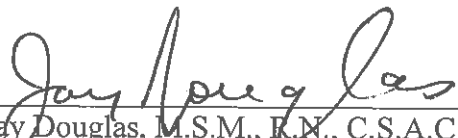
ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Nursing hereby ORDERS as follows:

1. The license issued to Juan Carlos Montalvo, L.P.N., to practice practical nursing in the Commonwealth of Virginia is INDEFINITELY SUSPENDED.
2. The license of Juan Carlos Montalvo, L.P.N., will be recorded as SUSPENDED.
3. This suspension applies to any multistate privilege to practice practical nursing.
4. Should Juan Carlos Montalvo, L.P.N., seek reinstatement of his license, an administrative proceeding shall be convened to consider such application. At such time, the burden shall be on Juan Carlos Montalvo, L.P.N., to demonstrate that he is safe and competent to return to the practice of practical nursing. Juan Carlos Montalvo, L.P.N., shall be responsible for any fees that may be required for the reinstatement and/or renewal of the license prior to issuance of the license to resume practice.

Pursuant to Virginia Code §§ 2.2-4023 and 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.

FOR THE BOARD



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

ENTERED AND MAILED ON:

October 12th, 2016

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 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.

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: **JUAN CARLOS MONTALVO, L.P.N.**
License Number: **0002-059404**
Issue Date: **March 28, 2000**
Expiration Date: **May 31, 2017**
Case Number: **169831**

**NOTICE OF FORMAL ADMINISTRATIVE HEARING
AND STATEMENT OF ALLEGATIONS**

You are hereby notified that a Formal Hearing has been scheduled before the Board of Nursing ("Board") regarding your license to practice practical nursing in the Commonwealth of Virginia.

TYPE OF PROCEEDING:	This is a formal administrative hearing before a panel of the Board of Nursing.
DATE AND TIME:	September 21, 2016 10:00 A.M.
PLACE:	Virginia Department of Health Professions Perimeter Center - 9960 Mayland Drive 2 nd Floor - Virginia Conference Center Henrico, Virginia 23233

LEGAL AUTHORITY AND JURISDICTION:

1. This formal hearing is being held pursuant to Virginia Code §§ 2.2-4020, 2.2-4024(F), and 54.1-2400(11). This proceeding will be convened as a public meeting pursuant to Virginia Code § 2.2-3700.

2. At the conclusion of the proceeding, the Board is authorized to take any of the following actions:

- Exonerate you;
- Reprimand you;
- Require you to pay a monetary penalty;
- Place you on probation and/or under terms and conditions;
- Suspend your license;
- Revoke your license.

ABSENCE OF RESPONDENT AND RESPONDENT'S COUNSEL:

If you fail to appear at the formal hearing, the Board may proceed to hear this matter in your absence and may take any of the actions outlined above.

RESPONDENT'S LEGAL RIGHTS:

You have the right to the information on which the Board will rely in making its decision, to be represented by counsel at this proceeding, to subpoena witnesses and/or documents, and to present relevant evidence on your behalf.

COMMONWEALTH'S EXHIBIT:

Enclosed is a copy of the documents that will be distributed to the members of the Board and will be considered by the Board when discussing any allegations with you and when deliberating on your case. **These documents are enclosed only with the notice sent by certified mail, which you may be required to claim at the post office. Please bring these documents with you to the formal hearing.**

FILING DEADLINES:

1. **Deadline for filing exhibits: September 2, 2016.** Submit 15 copies of all documents you want the Board to consider to Darlene Graham, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. Exhibits may not be sent by facsimile or e-mail. Please note that any documentation or evidence that you previously submitted for an informal conference must be resubmitted for consideration by the Board at the formal hearing.


2. **Deadline for filing motions, including motions for continuance or objections to exhibits, in writing, to Darlene Graham at the above address: September 2, 2016.** NOTE: Failure to object to the distribution prior to the proceeding will not affect your right to contest any information contained in these documents at the proceeding.

STATEMENT OF ALLEGATIONS

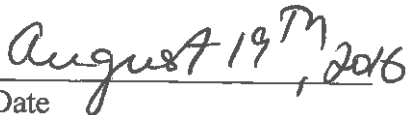
The Board of Nursing alleges that:

1. At all times relevant hereto, Juan Carlos Montalvo, L.P.N. was licensed to practice practical nursing in the Commonwealth of Virginia.
2. Juan Carlos Montalvo, L.P.N. violated Virginia Code § 54.1-3007(2), (5) and (8) and 18 VAC 90-20-300(A)(2)(f) and (l) of the Regulations Governing the Practice of Nursing in that during the course of his employment with the Transitional Care Unit at Bon Secours DePaul Medical Center, Norfolk, Virginia ("DePaul TCU") he engaged in inappropriate sexual contact and/or sexual abuse of residents as follows:
 - a. On or about June 28, 2013, Mr. Montalvo touched 87-year-old Resident A's vagina with his fingers for no legitimate therapeutic reason.
 - b. On or about August 17, 2015, Mr. Montalvo touched 98-year-old Resident B's breasts for no legitimate therapeutic reason.
 - c. On or about September 1, 2015, Mr. Montalvo kissed 90-year-old Resident C in the mouth and rubbed her breasts.
 - d. On or about November 8, 2015, Mr. Montalvo hugged and kissed 82-year-old Resident D on the lips.

See Confidential Attachment I for the names of the residents referenced above.



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



Date