

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: KEVIN HALEY, C.N.A.
Certificate Number: 1401-159721
Case Numbers: 168607, 168704, 170660

RATIFICATION AND ORDER

On September 21, 2016, a panel of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Kevin Haley, C.N.A. was not present nor was he represented by legal counsel.


The Board of Nursing ACCEPTS the attached Amended Recommended Findings of Fact and Conclusions of Law of the Agency Subordinate and ADOPTS the Amended 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 § 54.1-2400.2(K), the Board considered whether to disclose or not disclose Mr. Haley's health records or health services.

Since Mr. Haley failed to appear at the informal conference, this Order shall be considered final. Mr. Haley 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, Mr. Haley has thirty days from the date of service (the date he actually received this decision or the date it was mailed to him, whichever occurred first) within 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, 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



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

ENTERED AND MAILED ON:

Oct 3, 2016

Certified True Copy

By 

Virginia Board Of Nursing

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AMENDED 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 August 11, 2016 in Henrico County, Virginia, to inquire into evidence that Kevin Haley, C.N.A. may have violated certain laws and regulations governing the practice of nurse aides in the Commonwealth of Virginia.

Mr. Haley 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 July 7, 2016, the Board of Nursing sent a Notice of Informal Conference (“Notice”) to Mr. Haley notifying him that an informal conference would be held on August 11, 2016. The Notice was sent by certified and first class mail to the legal address of record on file with the Board of Nursing. The Notice sent by certified mail was returned to the Board office marked “unclaimed.” 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 Mr. Haley and the informal conference proceeded in his absence.

Recommended Findings of Fact and Conclusions of Law

1. Kevin Haley, C.N.A. was issued Certificate Number 1401-159721 to practice as a nurse aide on May 8, 2013, which expired on May 31, 2016.
2. Mr. Haley violated Virginia Code § 54.1-3007(6) in that he is unsafe to practice as a nurse aide due to admitted substance abuse and five hospitalizations for mental illness between November 30, 2014 and November 4, 2015. Mr. Haley attempted suicide by hanging at least three times.
3. Mr. Haley violated Virginia Code § 54.1-3007(2), (5) and (8) and 18 VAC 90-25-100(2)(e) of the Regulations Governing Certified Nurse Aides in that during the course of his employment at Centra Lynchburg General Hospital, Lynchburg, Virginia, on or about May 3, 2015, Mr. Haley clocked out and left the facility without notifying anyone, leaving his eight assigned patients unattended for an extended period of time. This constitutes a finding of neglect pursuant to 42 CFR § 483.13(c)(1)(ii)(B) and 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D).
4. Mr. Haley failed to respond to the Department of Health Professions investigator's requests for an interview.

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 Kevin Haley to renew his certificate to practice as a nurse aide in the Commonwealth of Virginia is INDEFINITELY SUSPENDED for a period of not less than one year from the date of entry of this Order.
2. The certificate of Kevin Haley will be recorded as SUSPENDED.

3. A Finding of Neglect shall be ENTERED against Kevin Haley 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 Kevin Haley'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, Kevin Haley 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 he can demonstrate that his employment and personal history do not reflect a pattern of abusive behavior or neglect.

Reviewed and approved on August 23, 2016
By Nancy K. Durrett, R.N., M.S.
Agency Subordinate