

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: **Malkia Malaika Gaines, R.M.A.**
Registration Number: 0031-005453
Case Number: 169136/170954

RATIFICATION AND ORDER

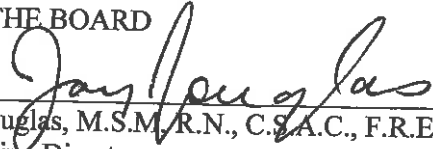
On July 20, 2016, a panel of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Malkia Malaika Gaines, R.M.A. was not present nor was she represented by legal counsel.

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



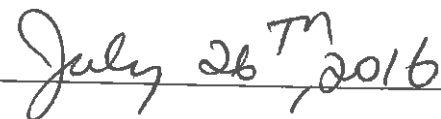
Jay Douglas, M.S.M., R.N., C.S.A.C., F.R.E.
Executive Director
Virginia Board of Nursing

Certified True Copy

By 

Virginia Board Of Nursing

ENTERED AND MAILED ON:



July 26TH 2016

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: Malkia Malaika Gaines, R.M.A.
Registration Number: 0031-005453
Case Number: 169136/170954

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., serving as Agency Subordinate of the Virginia Board of Nursing (“Board”), held an informal conference on June 16, 2016 in Henrico County, Virginia, to inquire into evidence that Malkia Malaika Gaines, R.M.A. may have violated certain laws and regulations governing the practice of medication aides in the Commonwealth of Virginia.

Ms. Gaines 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 May 18, 2016, the Board of Nursing sent a Notice of Informal Conference (“Notice”) to Ms. Gaines notifying her that an informal conference would be held on June 16, 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 via certified mail was left at Ms. Gaines’ address of record on May 19, 2016. The Notice sent via first-class mail was not returned to the Board office. Ms. Gaines telephoned the Board office and stated that she would not be attending the informal conference. Accordingly, the Agency Subordinate concluded that adequate notice was provided to Ms. Gaines and the informal conference proceeded in her absence.

Recommended Findings of Fact and Conclusions of Law

1. Malkia Malaika Gaines, R.M.A. was issued Registration Number 0031-005453 to practice as a medication aide on November 4, 2011, which is scheduled to expire on August 31, 2016. At all times relevant to the allegations herein, said registration was in full force and effect.
2. Ms. Gaines violated Virginia Code § 54.1-3007(2), (5), (6), and (8) and 18 VAC 90-60-120(2)(c) of the Regulations Governing the Registration of Medication Aides (“Regulations”) in that:
 - a. During the course of her employment with Chestnut Grove Assisted Living Facility, Richmond, Virginia, on November 8, 2015, she diverted approximately 30 oxycodone (C-II) tablets for her personal and unauthorized use, which she accomplished by not recording the delivery of the tablets from the pharmacy.
 - b. During the course of her employment with Symphony Manor of Richmond, Richmond, Virginia, on August 4, 2015, she diverted a blister pack containing 22 tablets of oxycodone for her personal and unauthorized use.
 - c. During the course of her employment with Brookdale Senior Living, Richmond, Virginia, on July 15, 2015, she diverted two oxycodone tablets and a blister pack containing 30 oxycodone tablets for her personal and unauthorized use. She accomplished this diversion by removing the tablets from the medication cart to which only she was assigned that day.
3. Ms. Gaines violated Virginia Code § 54.1-3007(2), (5) and (8) and 18 VAC 90-60-120(2)(f), (l), and (m) and 18 VAC 90-60-110(A)(2) of the Regulations in that during the course of her employment with Heritage Green, Richmond, Virginia, between August 2014 and October 2014, she withdrew multiple narcotic medications and failed to document their administration on residents’ medication administration records.

4. Ms. Gaines violated Virginia Code § 54.1-3007(2) and 18 VAC 90-60-120(2)(e) of the Regulations in that:

a. On her February 23, 2015, application for employment with Brookdale Senior Living, Richmond, Virginia, she falsely stated that she had resigned her employment with Heritage Green when, in fact, her employment had been terminated.

b. On her October 19, 2015, application for employment with Chestnut Grove Assisted Living Facility, Ms. Gaines failed to disclose her previous employments with Symphony Manor and Brookdale Senior Living or that they had been terminated.

5. Ms. Gaines violated Virginia Code § 54.1-3007(4) in that on or about May 13, 2004, she was convicted in the Henrico County General District Court of petit larceny, a misdemeanor involving moral turpitude.

6. When interviewed by the investigator for the Department of Health Professions (“DHP”) about the Symphony Manor incident, Ms. Gaines denied diverting any medication. She did not respond to the DHP investigator about the Chestnut Grove incident.

7. Ms. Gaines’ employment with three different facilities has been terminated for suspicion of diversion.

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. Malkia Malaika Gaines is REPRIMANDED.
2. The registration of Malkia Malaika Gaines to practice as a medication aide in the Commonwealth of Virginia is REVOKED.
3. The registration of Malkia Malaika Gaines will be recorded as REVOKED.

4. Pursuant to Virginia Code § 54.1-2408.2, should Malkia Malaika Gaines seek reinstatement of her registration after three years, the reinstatement of Malkia Malaika Gaines's registration shall require the affirmative vote of three-fourths of the members at a formal administrative proceeding convened by the Board. At such time, the burden shall be on Malkia Malaika Gaines to demonstrate that she is safe and competent to return to the practice of a medication aide. Malkia Malaika Gaines shall be responsible for any fees that may be required for the reinstatement and/or renewal of the registration prior to issuance of the registration to resume practice.

Reviewed and approved on July 6, 2016
By Nancy Durrett, R.N., M.S.
Agency Subordinate