

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: FRANKIE BURNETTE, C.N.A.
License No.: 1401-166166**

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 April 14, 2015, in Henrico County, Virginia. Ms. Burnette was present and was represented by Christopher Nolen, Esquire. Nancy Durrett, R.N., M.S., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On July 15, 2015, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Burnette 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. Frankie Burnette, C.N.A., was issued Certificate No. 1401-166166 to practice as a certified nurse aide in Virginia on April 3, 2014. Said certificate is set to expire on April 30, 2016.
2. By letter dated March 10, 2015, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Burnette notifying her that an informal conference would be held on April 14, 2015. The Notice was sent by certified and first class mail to 1401 Westshire Lane, Henrico, Virginia, 23238, the address of record on file with the Board of Nursing. The Notice was also sent to Christopher Nolen, Esquire, at 901 East Cary Street, Richmond, VA 23219-4030.
3. During the course of her employment as a personal care aide, providing care to a patient in the patient's home:

a. Between August 2014 and September 11, 2014, by her own admission, Ms. Burnette took the patient’s hydrocodone barbiturate acetaminophen tylenol 5/325 (C-II) medication for her own personal and unauthorized use and replaced the medication with her own prescribed hydrocodone barbiturate acetaminophen tylenol 10/325, which she cut in half.

b. Between April 2014 and September 2014, by her own admission, Ms. Burnette consumed hydrocodone while on duty and while providing care to her patient.

4. As a result of this incident, Ms. Burnette’s employment was terminated on September 11, 2014.

5. On September 25, 2014, Ms. Burnette enrolled in Richmond Private Methadone Clinic (“RPMC”) for maintenance methadone treatment for opiate dependence.

6. Ms. Burnette enrolled in the Health Practitioners’ Monitoring Program (“HPMP”) on November 13, 2014, and she signed a Recovery Monitoring Contract on December 29, 2014.

7. By her own admission, in February 2015, Ms. Burnette took two tablets of hydrocodone 10mg (C-II) already in her possession to treat a toothache. Ms. Burnette immediately reported her relapse to her counselor at RPMC, but she failed to tell her HPMP case worker. As a result, Ms. Burnette tested positive for hydrocodone on March 30, 2015 and was placed on warning status with HPMP. In an April 7, 2015 report, Ms. Burnette’s HPMP case manager wrote that Ms. Burnette appeared to be doing well.

CONCLUSIONS OF LAW

1. Findings of Fact No. 3(a) constitutes a violation of § 54.1-3007 (5), and (6) of the Code.
2. Finding of Fact No. 3(b) constitutes a violation of §54.1-3007(5) and (6) of the Code.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. The Board shall TAKE NO ACTION contingent on Ms. Burnette’s continued compliance

with the Health Practitioners' Monitoring Program ("HPMP") pursuant to Chapter 25.1 of Title 54.1 of the Code and 18 VAC 76-10-10 *et seq.* of the Regulations Governing the HPMP.

2. Any violation of the terms and conditions stated in this Order shall be reason for revoking the certificate of Ms. Burnette, and an administrative proceeding shall be held to decide whether her certificate should be revoked. Ms. Burnette shall be noticed to appear before the Board at such time as the Board is notified that:

a. Ms. Burnette is not in compliance with the terms and conditions of the HPMP, or has been terminated from participation in the HPMP;

b. There is a pending investigation or unresolved allegation against Ms. Burnette involving a violation of law or regulation or any term or condition of this Order; or

c. Ms. Burnette has successfully completed the above-referenced period of participation in the HPMP. However, upon receipt of Ms. Burnette's participation in and compliance with the HPMP, the Board, at its discretion, may waive Ms. Burnette's appearance before the Board and conduct an administrative review of this matter.

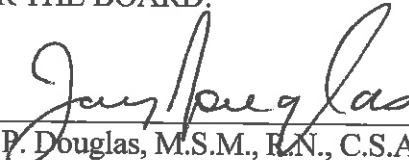
3. Ms. Burnette shall maintain a course of conduct in her capacity as a certified nurse aide commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

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.

Pursuant to Section 54.1-2400(10) of the Code, Ms. Burnette may, not later than 5:00 p.m., on **August 24, 2015**, notify Jay P. 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, in writing that she desires a formal

administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

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: July 20th, 2015

This Order shall become final on August 24, 2015; unless a request for a formal administrative hearing is received as described above.

Certified True Copy

By 

Virginia Board Of Nursing