

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE: FRANKIE L. BURNETTE, C.N.A.  
Certificate 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 March 10, 2016, in Henrico County, Virginia. Ms. Burnette was not present nor was she represented by legal counsel. Jane Elliott, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On May 18, 2016, 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 L. Burnette, C.N.A. was issued Certificate No. 1401-166166 to practice as a certified nurse aide in Virginia on April 30, 2014. The certificate is scheduled to expire on April 20, 2016.
2. By letter dated February 16, 2016, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Burnette notifying her that an informal conference would be held on March 10, 2016. 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. According to the U.S.P.S. tracking website, the Notice sent by certified mail was still out for delivery as of March 10, 2016. The Notice sent by first class mail was not returned to the Board office. The Agency Subordinate concluded that adequate notice was provided to Ms. Burnette and the informal conference proceeded in her absence.
3. By Order dated July 20, 2015 ("Board's Order"), the Board took no action against Ms. Burnette's certificate contingent upon her continued compliance with the Health Practitioners' Monitoring Program ("HPMP") based on findings that Ms. Burnette had taken a patient's hydrocodone (C-II) and ingested the medication while

assigned to provide care to the patient.

4. On November 13, 2014, Ms. Burnette signed a Participation Contract with the HPMP in which she acknowledged her hydrocodone (C-II) abuse.
5. On September 18, 2015, Ms. Burnette was dismissed from the HPMP for continued noncompliance.
6. On August 14, 2015, Ms. Burnette's therapist reported to the HPMP that Ms. Burnette had submitted a positive drug screen to her treatment provider and that Ms. Burnette had relapsed on hydrocodone.
7. On September 9, 2015, Ms. Burnette stopped calling the HPMP test line as required by her Monitoring Contract.
8. On September 15, 2015, Ms. Burnette's therapist reported that Ms. Burnette had admitted to relapsing on Adderall (C-II).
9. Ms. Burnette failed to respond to contact attempts by an investigator for the Department of Health Professions.
10. To date, Ms. Burnette has not re-enrolled in the HPMP.

#### CONCLUSIONS OF LAW

1. Finding of Fact No. 5 constitutes a violation of Term No. 1 of the Board's Order.
2. Findings of Fact Nos. 4 and 6 through 8 constitute a violation of § 54.1-3007(6) of the Code.

#### ORDER

WHEREFORE, it is hereby ORDERED as follows:


1. Certificate No. 1401-166166 of Frankie L. Burnette, C.N.A. is INDEFINITELY SUSPENDED.
2. The certificate will be recorded as suspended and no longer current.
3. At such time as Ms. Burnette shall petition the Board for reinstatement of her certificate, an administrative proceeding will be convened to determine whether she is capable of resuming the safe and competent practice as a nurse aide. Ms. Burnette shall be responsible for any fees that may be required for the reinstatement and renewal of the certificate prior to issuance of the certificate to resume practice.

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.

Since Ms. Burnette failed to appear at the informal conference, this Order shall be considered final. Ms. Burnette 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. Burnette has thirty (30) 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 (3) days are added to that period.

FOR THE BOARD

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

Entered: May 23<sup>RD</sup>, 2016

Certified True Copy

By   
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Virginia Board Of Nursing