

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: JOAN BIRCH, L.P.N.
License No.: 0002-078845

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 October 22, 2015 in Henrico County, Virginia. Joan Birch, L.P.N. was not present and not represented by legal counsel. Allison Gregory, M.S., R.N., F.N.P.-B.C., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On January 27, 2016, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Birch 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. Joan Birch, L.P.N. was issued License No. 0002-078845 to practice practical nursing in Virginia on August 14, 2008. The license is scheduled to expire on May 31, 2016. Her primary state of residence is Virginia.
2. By letter dated September 22, 2015, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Birch notifying her that an informal conference would be held on October 22, 2015. The Notice was sent by certified and first class mail to 9406 Emmet Road, Glen Allen, Virginia 23060, the address of record on file with the Board of Nursing. The Notice sent by certified mail was returned unclaimed to the Board office. 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. Birch and the informal conference proceeded in her absence.

3. During the course of her employment with Maxim Healthcare Services, Richmond, Virginia, on April 23, 2014, Ms. Birch was discovered sleeping while on duty and assigned to provide home care to a pediatric client who required total care and who presented a risk for choking and aspiration. Further, she documented that she started the client's tube feeding at 2:30 p.m., that the feeding finished at 2:25 p.m., and that she started to flush the tube at 2:51 p.m. According to the order, the feeding should have taken approximately 54 minutes.

4. Ms. Birch told an investigator for the Department of Health Professions that she charted the times of the tube feeding inaccurately because she was relying on different clocks in the home. She acknowledged not reviewing her charting for accuracy. She denied sleeping, although the child's mother told the investigator that she found Ms. Birch wrapped in her coat, sound asleep on the sofa. The mother stated that she was playing and talking with the child for several minutes before Ms. Birch woke up.

5. Ms. Birch's employment with Maxim, which began in November 2012, was terminated as a result of this incident. Previously, she had been employed with Elizabeth Crump Manor from 2008 to 2010 (first as a C.N.A.) and at Cedarfield from 2010 to 2011. She told the investigator that her employment at Cedarfield had been terminated for unprofessional conduct. At the time of the interview, she was employed with Envoy of Stratford Hills. She also was with Welcome Home Healthcare, with her last assignment being in the Summer of 2014.

6. There was no harm to the patient as a result of Ms. Birch's actions.

CONCLUSIONS OF LAW

Finding of Fact No. 3 constitutes a violation of § 54.1-3007(2) and (5) of the Code of Virginia (1950), as amended (“Code”), and 18 VAC 90-20-300(A)(2)(f) of the Regulations Governing the Practice of Nursing.

ORDER


WHEREFORE, it is hereby ORDERED as follows:

1. Joan Birch, L.P.N. is hereby REPRIMANDED and require that she provide evidence of completion of the NCSBN online course, “*Professional Accountability & Legal Liability for Nurses*”, within 60 days of entry of the Order.
2. Ms. Birch shall maintain a course of conduct in her capacity as a practical nurse 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.

Since Ms. Birch failed to appear at the informal conference, this Order shall be considered final. Ms. Birch 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. Birch 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, MSM, RN, CSAC, FRE, 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



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

Entered: February 26TH, 2016

Certified True Copy

By 

Virginia Board Of Nursing