

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: JOAN S. BIRCH, L.P.N.

License Number: 0002-078845

Case Number: 173941

RATIFICATION AND ORDER

On January 25, 2017, a panel of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Joan S. Birch, L.P.N., 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.

Pursuant to Virginia Code § 54.1-2400.2(K), the Board considered whether to disclose or not disclose Ms. Birch's health records or health services.

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 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.

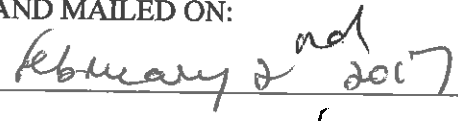
FOR THE BOARD


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:


February 2nd 2017

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: JOAN S. BIRCH, L.P.N.
License Number: 0002-078845
Case Number: 173941

REPORT AND RECOMMENDATION OF AGENCY SUBORDINATE

Jurisdiction and Procedural History

Pursuant to Virginia Code §§ 2.2-4019 and 54.1-2400(10), Judith Piersall, R.N., B.S.N., serving as Agency Subordinate of the Virginia Board of Nursing (“Board”), held an informal conference on October 18, 2016 in Henrico County, Virginia, to inquire into evidence that Joan S. Birch, L.P.N., may have violated terms of an Order of the Board and certain laws and regulations governing the practice of practical nursing in the Commonwealth of Virginia.

Ms. Birch 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 September 21, 2016, the Board sent a Notice of Informal Conference (“Notice”) to Ms. Birch notifying her that an informal conference would be held on October 18, 2016. The Notice was sent by certified and first class mail to the legal address of record on file with the Board. The Notice sent via certified mail to Ms. Birch’s address of record was returned to the Board office on October 11, 2016. The Notice sent via first-class mail to Ms. Birch’s address of record was not returned to the Board office. Accordingly, the Agency Subordinate concluded that adequate notice was provided to Ms. Birch and the informal conference proceeded in her absence.

Recommended Findings of Fact and Conclusions of Law

1. Joan S. Birch, L.P.N., was issued License Number 0002-078845 to practice practical nursing on August 14, 2008, which expired on May 31, 2016. At all times relevant to the findings herein, said license was in full force and effect. Her primary state of residence is Virginia.
2. By Order entered February 26, 2016, the Board reprimanded Ms. Birch and required her to provide evidence of completion of the NCSBN course *Professional Accountability & Legal Liability for Nurses* within 60 days of the entry of the Order, or by April 26, 2016.
3. Ms. Birch violated Term No. 1 of the Board's Order in that she has failed to provide evidence of completing the required course.
4. Ms. Birch violated Virginia Code § 54.1-3007(6) in that she is unable to safely practice practical nursing due to complications from having suffered a stroke in October 2015, including paralysis of the hand, split vision, and cognitive limitations.
5. Pursuant to Virginia Code § 54.1-2400.2(K), the Board considered whether to disclose or not disclose Ms. Birch's health records or health services.

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 Joan S. Birch, L.P.N., to renew her license to practice practical nursing in the Commonwealth of Virginia is INDEFINITELY SUSPENDED.
2. The license of Joan S. Birch, L.P.N., will be recorded as SUSPENDED.
3. This suspension applies to any multistate privilege to practice practical nursing.
4. Should Joan S. Birch, L.P.N., seek reinstatement of her license, an administrative proceeding shall be convened to consider such application. At such time, the burden shall be on Joan S.

Birch, L.P.N., to demonstrate that she is safe and competent to return to the practice of practical nursing. Joan S. Birch, L.P.N., shall be responsible for any fees that may be required for the reinstatement and/or renewal of the license prior to issuance of the license to resume practice.

Reviewed and approved on November 28, 2016
By Judith Piersall, R.N., B.S.N.
Agency Subordinate