

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE:           STEPHEN BURTON, C.N.A.  
                  Certificate No.: 1401-163073**

**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 21, 2015, in Henrico County, Virginia. Stephen Burton, C.N.A., was not present nor was he represented by legal counsel. Judith Piersall, R.N., B.S.N., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On May 20, 2015, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mr. Burton was not present nor was he 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. Stephen Burton, C.N.A., was issued Certificate No. 1401-163073 to practice as a nurse aide in Virginia on October 2, 2013. The certificate is scheduled to expire on October 31, 2015.
2. By letter dated March 23, 2015, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Mr. Burton notifying him that an informal conference would be held on April 21, 2015. The Notice was sent by certified and first class mail to 11960 Highway 92, Chase City, Virginia 23924, the address of record on file with the Board of Nursing. On March 24, 2015, Charles Burton accepted the Notice sent by certified mail. As of April 21, 2015, the Notice sent by first class mail had not been returned to the Board office. The Agency Subordinate concluded that adequate notice was provided to Mr. Burton and the informal conference proceeded in his absence.
3. Between June 7, 2014, and June 10, 2014, during the course of his employment with the

Laurels of University Park (“Laurels”), Henrico, Virginia, Mr. Burton placed his hand in Resident A’s vagina for no legitimate therapeutic purpose. According to the resident, who was alert and oriented, she was in bed at the time and Mr. Burton told her that he was checking to see if she was wet.

4. The resident reported this incident to her son, who notified the Henrico Police Department. During the course of his investigation, a Henrico police detective notified the Laurels of the incident regarding Mr. Burton as alleged by Resident A. The Laurels initiated an investigation on June 18, 2014. On June 23, 2014, the acting administrator for the Laurels documented that they were unable to substantiate that any sexual abuse or misconduct occurred. The Administrator wrote that since Mr. Burton was on a 90-day probationary period, and was having difficulty completing tasks, they decided to terminate his employment.

5. On December 11, 2014, Mr. Burton pled no contest to simple assault, a misdemeanor, in the Henrico, Virginia, General District Court, as a result of this incident.

6. Mr. Burton denied the allegation that he touched Resident A inappropriately during his interview with the investigator for the Department of Health Professions, but stated that he does not plan to work as a nurse aide again.

7. Mr. Burton was employed with four facilities and two home health companies since his certification in October 2013.

#### **CONCLUSIONS OF LAW**

1. Findings of Fact Nos. 3 and 5 constitute a violation of § 54.1-3007(2), (5), and (8) of the Code of Virginia (1950), as amended (“Code”), and 18 VAC 90-25-100(2)(e) of the Regulations Governing Certified Nurse Aides.

2. Findings of Fact Nos. 3 and 5 and Conclusion of Law No. 1 constitute a Finding of Abuse pursuant to 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D) of the Code of Federal Regulations.

#### **ORDER**

WHEREFORE, it is hereby ORDERED as follows:

1. Certificate No. 1401-163073 of Stephen Burton to practice as nurse aide is REVOKED.

2. The certificate will be recorded as revoked and no longer current.

3. A Finding of Abuse shall be ENTERED against Mr. Burton in the Virginia Nurse Aide Registry pursuant to 42 CFR § 483.13(c)(1)(ii)(B) and 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D). This finding prohibits Mr. Burton's employment as a certified nurse aide in any long-term care facility that receives Medicare or Medicaid reimbursement, according to 42 CFR § 483.13(c)(1)(ii)(B).

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 Mr. Burton failed to appear at the informal conference, this Order shall be considered final. Mr. Burton 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, Mr. Burton has 30 days from the date of service (the date he actually received this decision or the date it was mailed to him, 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 P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E.  
Executive Director  
Virginia Board of Nursing

Entered: May 28, 2015

Certified True Copy

By [Signature]  
Virginia Board Of Nursing