

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: DAVINA I. PHOENIX, C.N.A.
Certificate No.: 1401-042961

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 12, 2015, in Henrico County, Virginia. Davina I. Phoenix, C.N.A., was present and was not represented by legal counsel. Jodi P. Power, R.N., J.D., 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 Ms. Phoenix 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. Davina I. Phoenix, C.N.A., was issued Certificate No. 1401-042961 to practice as a nurse aide in Virginia on February 19, 1994. The certificate expired on February 28, 2015.
2. By letter dated February 12, 2015, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Phoenix notifying her that an informal conference would be held on March 12, 2015. The Notice was sent by certified and first class mail to 1234 Crouse Hollow Road, Rural Retreat, Virginia 24368, the address of record on file with the Board of Nursing.
3. During the course of her employment with Carrington Place, Wytheville, Virginia, by her own admission, on September 19, 2014, Ms. Phoenix stole \$200.00 from Resident A.
4. The incident was captured on video and showed Ms. Phoenix going through the resident's

belongings, opening a drawer and removing money and placing it in her pocket as she exited the room. Ms. Phoenix was employed at Carrington Place for six years, when her employment was terminated on September 25, 2014.

5. On February 4, 2015, in the Circuit Court of Wythe County, Virginia, Ms. Phoenix pled guilty to and was convicted of petit larceny, in relation to the theft of money from Resident A. She was ordered to pay \$200.00 restitution and provided documentation that it was paid in full on February 4, 2015. Ms. Phoenix was also ordered to pay \$277.00 in court costs and reported that she has a balance due of \$177.00.

6. Ms. Phoenix is currently employed in housekeeping at a local hotel, with no plans to return to nurse aide work. Although she would like to work as a nurse aide, she recognizes that she cannot, due to the above-referenced incident.

Recommended Conclusions of Law

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(2), (5) and (8) of the Code and 18 VAC 90-25-100(2)(h) of the Regulations Governing Certified Nurse Aides.
2. Finding of Fact No. 5 constitutes a violation of § 54.1-3007(4) of the Code.
3. Findings of Fact No. 3 and 5 and Conclusions of Law No. 1 constitute a finding of misappropriation of patient property 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. The right of Davina I. Phoenix, C.N.A., to renew Certificate No. 1401-042961 is REVOKED.

2. The certificate will be recorded as revoked and no longer current.
3. A Finding of Misappropriation of patient property shall be ENTERED against Ms. Phoenix 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 Ms. Phoenix'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.

Pursuant to Section 54.1-2400(10) of the Code, Ms. Phoenix may, not later than 5:00 p.m., on **June 23, 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 he/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: May 26, 2015

This Order shall become final on June 23, 2015; unless a request for a formal administrative hearing is received as described above.

Certified True Copy

By 
Virginia Board Of Nursing