

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: NECHELLE Y. LEMAGNE, C.N.A.
 Certificate No.: 1401-090266**

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. Nechelle Y. Lemagne, 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. Lemagne 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. Nechelle Y. Lemagne, C.N.A., was issued Certificate No. 1401-090266 to practice as a nurse aide in Virginia on January 26, 2002. The certificate is scheduled to expire on January 31, 2016.
2. By letter dated February 6, 2015, the Board of Nursing sent a Notice of Informal Conference ("Notice") Ms. Lemagne notifying her that an informal conference would be held on March 12, 2015. The Notice was sent by certified and first class mail to 462 Denbigh Blvd., Apt. 14, Newport News, Virginia 23608, the address of record on file with the Board of Nursing.
3. On July 18, 2008, in the General District Court of Hampton, Virginia, Ms. Lemagne was convicted of shoplifting, a misdemeanor of moral turpitude. She was sentenced to 30 days in jail, suspended, and ordered to pay fines and court costs totaling \$436.00.

4. On March 1, 2010, in the General District Court of Newport News, Virginia, Ms. Lemagne was convicted of misdemeanor identity theft, a misdemeanor of moral turpitude. She was sentenced to six months in jail, suspended, placed on probation for one year and ordered to pay a \$300.00 fine.

5. On July 7, 2014, in the Circuit Court of Newport News, Virginia, Ms. Lemagne was convicted of petit larceny, a misdemeanor of moral turpitude. She was sentenced to 30 days in jail, with 26 days suspended for a period of two years, and ordered to pay \$221.00 in fines and court costs.

6. Ms. Lemagne stated that her shoplifting and petit larceny convictions were “unfortunate” as they were due to the actions of others. She acknowledged that the identity theft conviction was due to her bad judgment. She also stated that all of the convictions were unrelated to her nurse aide practice. Ms. Lemagne stated that she has paid all fines and court costs, but failed to provide documentation to substantiate.

7. On December 15, 2014, in the General District Court of York County, Virginia, Ms. Lemagne was convicted of misdemeanor trespassing. Said conviction was reduced from an original charge of credit card fraud that was based upon Ms. Lemagne stealing a fellow classmate’s credit card while enrolled at ECPI/MCI practical nursing education program. Ms. Lemagne denied stealing the credit card. Ms. Lemagne stated that her classmate willingly gave her the card for the purpose of obtaining cash for herself in exchange for Ms. Lemagne obtaining drugs for the classmate. Ms. Lemagne actually denied obtaining the drugs, but admitted to using the credit card for gas. Ms. Lemagne acknowledged that she used poor judgment in this situation. She was sentenced to 90 days in jail, with 86 days suspended, placed on supervised probation for 12 months and ordered to pay court costs of \$121.00. She remains on probation.

8. Ms. Lemagne was enrolled in the ECPI/MCI practical nursing education program from

May 9, 2011 to June 2014. Two of the above-referenced criminal offenses resulting in convictions occurred while in nursing school. She must complete five weeks of clinicals in order to complete the program.

9. Although she has moved to North Carolina, Ms. Lemagne stated she would like to retain her nurse aide certificate in Virginia until she can complete the practical nursing education program and obtain her nursing license. Since November 2014, Ms. Lemagne has been providing private duty care to a resident in North Carolina, in an unsupervised employment setting. Her duties include assisting the resident with paying bills and buying groceries using the resident's debit card. Ms. Lemagne is not certified as a nurse aide in North Carolina at this time, but plans to pursue certification until she can obtain nurse licensure.

10. At the informal conference, Ms. Lemagne stated that she was previously employed PRN at "The Consulate" in Williamsburg, Virginia, from 2010 to 2014, and left because she moved to North Carolina. On July 21, 2014, during an interview with an investigator from the Department of Health Professions, Ms. Lemagne reported that she had not worked as a nurse aide for several years.

CONCLUSIONS OF LAW

Findings of Fact Nos. 3, 4 and 5 constitutes a violation of § 54.1-3007(4) of the Code.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

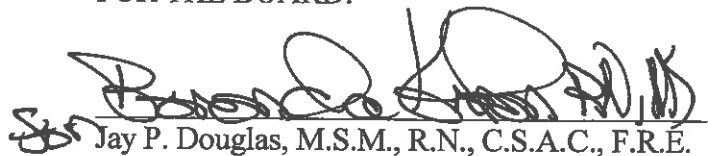
1. Certificate No. 1401-090266 of Nechelle Y. Lemagne, C.N.A., is INDEFINITELY SUSPENDED.
2. The certificate will be recorded as suspended and no longer current.
3. At such time as Ms. Lemagne shall petition the Board for reinstatement of her certificate, an administrative proceeding will be convened to determine whether she is capable of

resuming safe and competent practice as a nurse aide. Ms. Lemagne 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.

Pursuant to Section 54.1-2400(10) of the Code, Ms. Lemagne 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 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