

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: AMY CHERRY, C.N.A.
 Certificate No.: 1401-131304**

ORDER

Pursuant to §§ 2.2-4019, 2.2-4021, and 54.1-2400(10) of the Code of Virginia (1950), as amended (“Code”), a Special Conference Committee (“Committee”) of the Virginia Board of Nursing (“Board”) met on April 14, 2015, in Henrico County, Virginia, to inquire into evidence that Amy Cherry, C.N.A., may have violated certain laws and regulations governing nurse aide practice in Virginia. Ms. Cherry was present and was not represented by counsel.

Upon consideration of the evidence, the Committee adopts the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Amy Cherry, C.N.A., was issued Certificate No. 1401-131304 to practice as a nurse aide in the Commonwealth on July 9, 2009. Said certificate expired on July 31, 2014.
2. By letter dated March 17, 2015, the Board of Nursing sent a Notice of Informal Conference (“Notice”) to Ms. Cherry notifying her that an informal conference would be held on April 14, 2015. The Notice was sent by certified and first class mail to 200 Maywood Street, Blacksburg, Virginia, 24060, the address of record on file with the Board of Nursing.
3. Ms. Cherry was convicted of driving under the influence in 1996, 2007 and 2014, and she currently attends Alcoholics Anonymous meetings. She violated the terms of her probation related to her most recent DUI conviction by testing positive for alcohol on a vehicle ignition interlock system.
4. On her March 26, 2009, application for certification as a nurse aide, Ms. Cherry failed to disclose her 1996 conviction for driving under the influence.

CONCLUSIONS OF LAW

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(6) of the Code.
2. Finding of Fact No. 4 constitutes a violation of § 54.1-3007(1) of the Code and 18 VAC 90-25-100(1)(b) of the Regulations Governing Certified Nurse Aides.
3. Based on the above Findings of Fact, the Committee concludes that Ms. Cherry is a candidate for the Health Practitioners' Monitoring Program ("HPMP").

ORDER

On the basis of the foregoing, the Committee hereby ORDERS as follows:

1. The Committee shall TAKE NO ACTION at this time, contingent upon Amy Cherry's compliance with the following terms and conditions:
 - a. Ms. Cherry shall enter into the Health Practitioners' Monitoring Program ("HPMP"), pursuant to § 54.1-2515 *et seq.* of the Code and 18 VAC 76-10-10 *et seq.* of the Regulations Governing the HPMP, and shall have proof of entry into a Contract with the HPMP provided to the Board within 60 days of the date this Order is entered.
 - b. Thereafter, Ms. Cherry shall comply with the terms and conditions of the HPMP for the period specified by the HPMP.
2. Any violation of the terms and conditions stated in this Order shall be reason for revoking the certificate of Ms. Cherry, and an administrative proceeding shall be held to decide whether her certificate should be revoked. Ms. Cherry shall be noticed to appear before the Board at such time as the Board is notified that:
 - a. Ms. Cherry has failed to make application to the HPMP;
 - b. Ms. Cherry is not in compliance with the terms and conditions of the HPMP, or has been terminated from participation in the HPMP;

c. There is a pending investigation or unresolved allegation against Ms. Cherry involving a violation of law or regulation or any term or condition of this Order; or

d. Ms. Cherry has successfully completed the above-referenced period of participation in the HPMP. However, upon receipt of Ms. Cherry's participation in and compliance with the HPMP, the Board, at its discretion, may waive Ms. Cherry's appearance before the Board and conduct an administrative review of this matter.

3. Ms. Cherry shall maintain a course of conduct in her capacity as a nurse aide commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

Pursuant to §§ 2.2-4023 and 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 public record and shall be made available for public inspection or copying on request.

Pursuant to Section 54.1-2400(10) of the Code, Ms. Cherry may, not later than 5:00 p.m., on June 20, 2015, notify Jay P. Douglas, 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 COMMITTEE:

for *Gloria Mitchell-Lively*
Jay P. Douglas, R.N., M.S.M., C.S.A.C., F.R.E.
Executive Director, Virginia Board of Nursing

ENTERED: *May 18th, 2015*

This Order shall become final on June 20, 2015, unless a request for a formal administrative hearing is received as described above.

Certified True Copy

By *[Signature]*
Virginia Board of Nursing