

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: ADAM SPENCER, C.N.A.
Certificate No.: 1401-150314**

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 October 29, 2014, in Henrico County, Virginia. Adam Spencer, C.N.A., was present and was represented by Thomas Weidner, Esquire. Nancy Durrett, R.N., M.S., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On January 28, 2015, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mr. Spencer 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. Adam Spencer, C.N.A., was issued Certificate No. 1401-150314 to practice as a nurse aide in Virginia on January 25, 2012. The certificate is scheduled to expire on January 31, 2015.
2. By letter dated July 17, 2014, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Mr. Spencer notifying him that an informal conference would be held on August 13, 2014. The Notice was sent by certified and first class mail to 1750 Rosser Avenue, Apt. 125-B, Waynesboro, Virginia 22980, the address of record on file with the Board of Nursing. On July 28, 2014, Mr. Spencer's attorney requested a continuance, and the conference was rescheduled to October 29, 2014 .

3. During the course of his employment with Envoy of Staunton, Staunton, Virginia, on January 27, 2014, during the 11:00 p.m. to 7:00 a.m. shift, Mr. Spencer smelled of alcohol while on duty, his eyes were dilated, he displayed erratic behavior, his speech was slurred, and he used profanity. He denied that he had any alcohol before the shift. On January 28, 2014, at approximately 3:00 p.m., Mr. Spencer reported to the facility for a meeting with management and he was suspected of being intoxicated at that time. A for-cause breathalyzer was performed, which was positive for alcohol at 0.051%. On January 28, 2014, Mr. Spencer's employment with Envoy of Staunton was terminated for poor performance.

4. On March 7, 2014, Mr. Spencer made statements in a voicemail message to a nurse co-worker at Envoy of Staunton regarding his termination, the co-worker perceived as threatening toward the facility.

5. During a hospitalization on March 7, 2014 Mr. Spencer admitted to the emergency room personnel that he had consumed approximately a fifth of bourbon and 12 beers. During this hospitalization, Mr. Spencer was diagnosed with mood disorder, alcohol dependence and alcohol withdrawal.

6. During the informal conference, Mr. Spencer stated that:

a. He discounted his prescribed medications himself, without his physician's knowledge or approval in April 2014.

b. He has a problem with alcohol and has been attending Alcoholics Anonymous daily since August 2014. He does not have a sponsor at this time.

c. He relapsed in August 2014. When asked about his sobriety date, Mr. Spencer could not provide a definite date of sobriety, but stated he has been sober since August.

d. He is currently employed as a C.N.A. with the University of Virginia health South

(“UVA Health South”).

e. He is not interested in entering into the Health Practitioners’ Monitoring Program because he would be required to stop working.

7. Mr. Spencer falsified an employment application with Envoy of Staunton dated October 25, 2013, in that he answered “no” to the question, “have you ever been convicted of a crime,” when, in fact, on August 6, 2012, he was convicted in the General District Court of Waynesboro, Virginia, of disorderly conduct, a class three misdemeanor .

8. Mr. Spencer falsified an employment application with the laurels of Charlottesville, Charlottesville, Virginia, dated march 19, 2014, in that he failed to reveal his employment with Envoy of Staunton.

9. Mr. Spencer provided six letters of support from his co-workers at UVA health South, and two letters from other supporters.

CONCLUSIONS OF LAW

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(5) and (6) of the Code.
2. Finding of Fact No. 5 and 6 (a-c) constitute a violation of § 54.1-3007(6) of the Code.
3. Findings of Fact Nos. 7 and 8 constitute a violation of § 54.1-3007(2) of the Code and 18 VAC 90-25-100(2)(d) of the Regulations Governing Certified Nurse Aides.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. Certificate No. 1401-150314 of Adam Spencer, C.N.A., to practice as a nurse aide is INDEFINITELY SUSPENDED.
2. The certificate will be recorded as suspended and no longer current.
3. At such time as Mr. Spencer shall petition the Board for reinstatement of his certificate,


an administrative proceeding will be convened to determine whether he is capable of resuming the safe and competent practice as a nurse aide. Mr. Spencer 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.

4. Mr. Spencer is hereby REPRIMANDED.

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, Mr. Spencer may, not later than 5:00 p.m., on **March 16, 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:


So Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E.
Executive Director
Virginia Board of Nursing

ENTERED: February 9, 2015

This Order shall become final on March 16, 2015; unless a request for a formal administrative hearing is received as described above.

Certified True Copy

By 
Virginia Board Of Nursing