

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: HEATHER POLSTON, C.N.A.
Certificate No.: 1401-093926**

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 November 25, 2014 in Henrico County, Virginia. Ms. Polston was not present nor was she 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 January 28, 2015, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Polston 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. Heather Polston, C.N.A., was issued Certificate No. 1401-093926 to practice as a certified nurse aide in Virginia on August 17, 2002. Said certificate is set to expire on August 31, 2015.

2. By letter dated October 16, 2014, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Polston notifying her that an informal conference would be held on November 25, 2014. The Notice was sent by certified and first class mail to 63 Retirement Lane #222, Martinsburg, West Virginia, 25404, the address of record on file with the Board of Nursing. The certified mail was delivered on October 18, 2014 and the first class mail was not returned to the Board office. The

Agency Subordinate concluded that adequate notice was provided to Ms. Polston and the informal conference proceeded in her absence.

3. During the course of her employment with Westminster Canterbury-Shenandoah Valley, Winchester, Virginia, on December 17, 2013 and December 18, 2013 Ms. Polston failed to provide care to a resident and falsely indicated vital sign results and times on the resident's information sheet. In addition, Ms. Polston failed to notify her supervisor that the resident's temperature had become elevated to 101.5 degrees.

4. Video surveillance obtained from the facility failed to show Ms. Polston entering into the resident's room at any time during her shift. Additionally, the video evidence indicated that she was in other residents' rooms at the times in which she documented recording the resident's vital signs.

5. During her shift on December 17, 2013 to December 18, 2013, by her own admission, Ms. Polston indicated she was working on crafts including a gingerbread house. She later posted pictures of her gingerbread house to Facebook; the pictures were taken and posted during her shift while she was at Westminster Canterbury-Shenandoah Valley.

6. Ms. Polston's employment with Westminster Canterbury-Shenandoah Valley was terminated on December 23, 2013, after a nine-month term of employment.

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)(d) and (e) of the Regulations Governing Certified Nurse Aides.

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

ORDER

1. Certificate No. 1401-093926 of Heather Polston, C.N.A., is INDEFINITELY SUSPENDED for a period of not less than one year.

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

3. At such time as Ms. Polston 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. Polston 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. A Finding of NEGLIGENCE shall be ENTERED against Ms. Polston 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. Polston'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).


5. Since this Finding of Neglect was based on a singular occurrence, Ms. Polston is eligible to petition the Board for removal of the Finding of Neglect one time, after a period of one year from the date of entry of this Order, if she can demonstrate that her employment and personal history do not reflect a pattern of abusive behavior or neglect.

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 Ms. Polston failed to appear at the informal conference, this Order shall be considered final. Ms. Polston 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, Ms. Polston has thirty (30) days from the date of service (the date she actually received this decision or the date it was mailed to her, 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 (3) 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: February 3, 2015

Certified True Copy .

By 
Virginia Board Of Nursing