

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: ASHLEY BURKS, C.N.A.
 Certificate No.: 1401-111742**

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 August 5, 2014 in Henrico County, Virginia. Ms. Burks 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 September 17, 2014, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Burks 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. Ashley Burks, C.N.A., was issued Certificate No. 1401-111742 to practice as a nurse aide in Virginia on December 8, 2005. The certificate is scheduled to expire on December 31, 2014.
2. By letter dated July 3, 2014, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Burks notifying her that an informal conference would be held on August 5, 2014. The Notice was sent by certified and first class mail to 32 Gibson Road, Altavista, Virginia, 24517, the address of record on file with the Board of Nursing. Neither the certified mail nor the first class mail was returned to the Board office. The Agency Subordinate concluded that adequate notice was provided to Ms. Burks and the informal conference proceeded in her absence.
3. During the course of her employment with Autumn Care of Altavista, Altavista, Virginia, on November 16, 2013, by her own admission, Ms. Burks failed to use a lift while providing incontinence care to a double-amputee resident, as required by the resident's care plan. Ms. Burks admitted she did not read the resident's

care plan which was posted inside the resident's closet, on the back of the closet door, nor did she read the transfer plan which was located on the wall outside the resident's room near the door. The resident, a bilateral amputee, suffered a skin tear to her right upper forearm.

4. Ms. Burks' employment with Autumn Care of Altavista was terminated on November 18, 2013 for failure to follow policy after a one-month term of employment. While employed at Autumn Care, Ms. Burks did not receive any other disciplinary actions.

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)(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

WHEREFORE, it is hereby ORDERED as follows:

1. Certificate No. 1401-111742 of Ashley Burks, 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. Burks shall petition the Board for reinstatement of her certificate, an administrative proceeding will be convened to determine whether she is capable of resuming the safe and competent practice as a nurse aide. Ms. Burks 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 Neglect shall be ENTERED against Ms. Burks 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. Burks' 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).

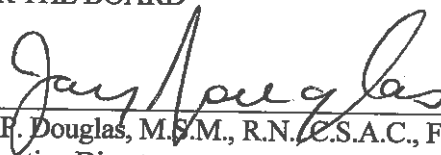
5. Since this Finding of Neglect was based on a singular occurrence, Ms. Burks is eligible to petition the Board for removal of the Finding of Neglect one time, after a period of one (1) year from the date of

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. Burks failed to appear at the informal conference, this Order shall be considered final. Ms. Burks 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. Burks 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:

September 30TH, 2014

Certified True Copy

By L. Ball
Virginia Board Of Nursing