

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: JOYCE THOMAS, C.N.A.

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 26, 2009 in Henrico County, Virginia. Ms. Thomas was not present nor was she represented by legal counsel. Jane Elliott, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On May 20, 2009 a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Thomas was not present nor was she represented by legal counsel. Ms. Thomas submitted written comments.

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. Joyce Thomas, C.N.A., was issued Certificate No. 1401-062269 to practice as a nurse aide in Virginia on November 7, 1996. The certificate is current and will expire on November 30, 2010.

2. By letter dated February 17, 2009, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Thomas notifying her that an informal conference would be held on March 26, 2009. The Notice was sent by certified and first class mail to 153 Graystone Trace, Suffolk, Virginia 23435, the address of record on file with the Board of Nursing. On March 26, 2009, prior to her scheduled informal conference, Ms. Thomas telephoned the Board to advise that she would not be present

for the informal conference, because her employer would not allow her to have the day off. The Agency Subordinate concluded that Ms. Thomas received adequate notice and the informal conference proceeded in her absence.

3. On June 25, 2008, while employed with the Golden Living Center (“Golden Living”), Portsmouth, Virginia, Ms. Thomas was observed engaging in a non-therapeutic verbal interaction with Resident A, who was described by the Director of Nursing as a very abusive resident who was unkind and difficult to care for. On June 30, 2008, Ms. Thomas’ employment was terminated as a result of this incident.

4. Due to Ms. Thomas’ alcohol use, she may be unsafe to practice as a nurse aide. Specifically:

a. On September 25, 2008, Ms. Thomas acknowledged in an interview with an investigator with the Department of Health Professions (“DHP”), that between April 12, 2006 and June 13, 2007, Ms. Thomas was admitted four times to Maryview Medical Center, Portsmouth, Virginia, for treatment for alcohol dependence, withdrawal syndrome and detoxification. Ms. Thomas has been diagnosed with generalized anxiety, major depression and alcohol intoxication.

b. Ms. Thomas acknowledged that her last hospitalization was June 11, 2007, and that she had a sobriety date of September 2007. According to Ms. Thomas this sobriety lasted approximately one year as she admitted to the investigator that she began drinking beer again “socially” in September 2008.

c. Ms. Thomas reported to the investigator that she sees a psychiatrist quarterly, but that the psychiatrist is unaware that she has started drinking again. Ms. Thomas admitted that her physician told her “not to drink any alcohol.” Ms. Thomas’ last appointment with her psychiatrist was in August 2008.

d. Ms. Thomas stopped attending Alcoholics Anonymous in February 2008, and in July 2008 discontinued medication prescribed by her psychiatrist, which is intended to decrease the craving for alcohol. Ms. Thomas claimed that the discontinuation of the medication was a recommendation of her psychiatrist.

e. Ms. Thomas acknowledged to the investigator that she considered herself an alcoholic “in the past” when she could not control her drinking; however, she currently does not consider herself an alcoholic because she feels she is “in control of her drinking.” Ms. Thomas stated that she drinks but does not get drunk.

f. The investigator for DHP supplied Ms. Thomas with information regarding the Health Practitioners’ Intervention Program (“HPIP”), and requested that she make contact. As of March 26, 2009, Ms. Thomas has not contacted HPIP.

CONCLUSIONS OF LAW

1. Finding of Fact # 3 constitutes a violation of § 54.1-3007(5) of the Code.
2. Findings of Fact #4a and #4b constitute a violation of § 54.1-3007(6) of the Code.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. Certificate No. 1401-062269 of Joyce Thomas is INDEFINITELY SUSPENDED.
2. The certificate will be recorded as suspended and no longer current.
3. At such time as Ms. Thomas 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. Thomas 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. This suspension shall be STAYED upon proof of entry into the HPIP pursuant to Chapter 25.1 of Title 54.1 of the Code and 18 VAC 76-10-10 *et seq.* of the Regulations Governing the HPIP. At such time, the indefinite suspension shall be STAYED and the following terms and conditions shall apply:

a. Ms. Thomas shall comply with all terms and conditions for the period specified by the HPIP.

b. Any violation of the terms and conditions stated in this Order shall be reason for summarily rescinding the stay of indefinite suspension of the certificate of Ms. Thomas, and an administrative proceeding shall be held to determine whether her certificate shall be revoked. The stay of indefinite suspension may be summarily rescinded at such time the Board is notified that:

i. Ms. Thomas is not in compliance with the terms and conditions specified by the HPIP;

ii. Ms. Thomas' participation in the HPIP has been terminated;

iii. There is a pending investigation or unresolved allegation against Ms. Thomas involving a violation of law, regulation, or any term or condition of this order.

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

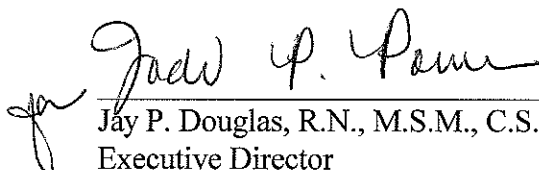
5. Should the indefinite suspension be stayed, Ms. Thomas shall maintain a course of conduct in her capacity as a nurse aide commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

Since Ms. Thomas failed to appear at the informal conference, this Order shall be considered

final. Ms. Thomas 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. Thomas 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, R.N., M.S.M., C.S.A.C., 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.

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.

FOR THE BOARD

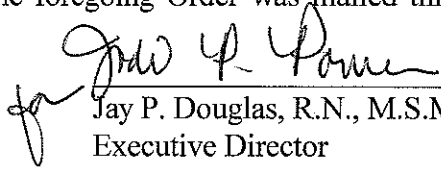


Jay P. Douglas, R.N., M.S.M., C.S.A.C.
Executive Director
Board of Nursing

Entered: May 26, 2009

Certificate of Service

I hereby certify that a true copy of the foregoing Order was mailed this day to 153 Graystone Trace, Suffolk, Virginia 23435.



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

May 26, 2009
DATE