

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE: BEVERLY SIMON, C.N.A.  
Certificate No.: 1401-029435**

**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 April 17, 2014, in Henrico County, Virginia. Ms. Simon was present and was not represented by legal counsel. Nancy Durrett, R.N., M.S., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On May 21, 2014, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Simon 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. Beverly Simon was issued Certificate No. 1401-029435 to practice as a nurse aide in Virginia on March 14, 1992. The certificate is scheduled to expire on March 31, 2015.
2. By letter dated March 19, 2014, the Virginia Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Simon notifying her that an informal conference would be held on April 17, 2014. The Notice was sent by certified and first class mail to 57 Colony Square Court, Apt. 8, Newport News, Virginia 23602, the address of record on file with the Board of Nursing.
3. During her employment at Newport News Nursing and Rehabilitation Center, Newport News, Virginia, on November 6, 2013, Ms. Simon attempted to transfer a resident from her bed to her wheelchair by herself using a mechanical lift, contrary to the resident's care plan and facility policy.
4. At the informal conference, Ms. Simon stated that the resident refused to use the Hoyer lift which always required two people. Instead, the resident insisted that Ms. Simon use the Sit and Stand lift that required only one staff member. Ms. Simon stated that the Sit and Stand lift was not included in the facility

manual and therefore did not address whether or not two staff were required to operate that apparatus.

5. During the transfer of the resident from bed to wheelchair, the resident fell onto her knees and suffered a fracture of her left tibia.

6. Ms. Simon's employment was terminated. She had been employed at the Newport News Nursing and Rehabilitation Center since 2003.

7. At the informal conference, Ms. Simon stated that she was unemployed and was applying for Social Security disability payments. She has not worked since January, 2014, due to health problems.

#### **CONCLUSIONS OF LAW**

1. Finding of Fact #3 constitutes a violation of §54.1-3007(2), (5) and (8) of the Code of Virginia (1950), as amended, 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. 1401-029435 of Beverly Simon, C.N.A., is INDEFINITELY SUSPENDED.

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

3. At such time as Ms. Simon 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. Simon 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. Simon 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. Simon'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. Simon 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.

Pursuant to Section 54.1-2400(10) of the Code, Ms. Simon may, not later than 5:00 p.m., on **July 2, 2014**, notify Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E., Executive Director, Virginia 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 BOARD:

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

ENTERED: May 30, 2014

This Order shall become final on July 2, 2014; unless a request for a formal administrative hearing is received as described above.

Certified True Copy

By   
Virginia Board Of Nursing