

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: TOBY SHAMBLIN, C.N.A.
Certificate No.: 1401-155831**

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 Virginia Board of Nursing ("Board") on December 17, 2013, in Henrico County, Virginia. Mr. Shamblin was present and was not 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 29, 2014, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Mr. Shamblin 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. Toby Shamblin was issued Certificate No. 1401-155831 to practice as a nurse aide in Virginia on September 26, 2012. The certificate is scheduled to expire on September 30, 2014.
2. By letter dated November 19, 2013, the Virginia Board of Nursing sent a Notice of Informal Conference ("Notice") to Mr. Shamblin notifying him that an informal conference would be held on December 17, 2013. The Notice was sent by certified and first class mail to 367 Bifrost Way, Linden, Virginia 22642, the address of record on file with the Board of Nursing. The Notice was also sent by certified and first class mail to 1257 Pine Ridge Drive, Front Royal, Virginia 22642, a secondary address.
3. During Mr. Shamblin's employment with Amerisist of Warrenton, Warrenton, Virginia,

from October 2012 to April 2013, and in August 2013, by his own admission, he posted approximately 13 pictures of residents on a social media website without the residents' permission. Next to the pictures, Mr. Shamblin included the residents' names and diagnosis, and profanity.

4. Mr. Shamblin admitted that he took the pictures and posted them online. Mr. Shamblin's employment at Amerisist of Warrenton was his first position as a nurse aide. Amerisist of Warrenton hired Ms. Shamblin on October 19, 2012, and terminated his employment on April 26, 2013. Amerisist of Warrenton rehired Mr. Shamblin August 7, 2013. Mr. Shamblin resigned his position before the pictures he had posted online were discovered. At the informal conference, Mr. Shamblin stated that he is currently unemployed.

CONCLUSIONS OF LAW

Finding of Fact No. 3 constitutes a violation of § 54.1-3007(2) and (5) of the Code and 18 VAC 90-25-100(2)(j) of the Regulations Governing Certified Nurse Aides.

ORDER

WHEREFORE, it is hereby ORDERED as follows:


1. Toby Shamblin, C.N.A., is hereby REPRIMANDED.
2. Mr. Shamblin shall maintain a course of conduct in his capacity as a nurse aide commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

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. Shamblin may, not later than 5:00 p.m., on March 17, 2014, 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 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: February 12th, 2014

This Order shall become final on March 17, 2014; unless a request for a formal administrative hearing is received as described above.

Certified True Copy

By 
Virginia Board Of Nursing