

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: MICHIA DEBERRY, C.N.A., RESPONDENT
Certificate No.: 1401-148033

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 12, 2013, in Henrico County, Virginia. Ms. DeBerry was not present nor was she represented by legal counsel. Nancy Durrett, R.N., M.S., 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. Ms. DeBerry 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. Michia DeBerry, C.N.A., was issued Certificate No. 1401-148033 to practice as a nurse aide in Virginia on September 21, 2011. The certificate expired on September 30, 2013.
2. By letter dated November 19, 2013, the Virginia Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. DeBerry notifying her that an informal conference would be held on December 12, 2013. The Notice was sent by certified and first class mail to 245 W. Main Street, Marion, VA 24354, the address of record on file with the Board of Nursing, and to 307 Ansell Avenue, Apt. F, Portsmouth, VA 23702., a secondary address. The certified mail sent to the address of record was returned to the Board marked "not deliverable as addressed." The certified mail sent to the alternative

address was not returned to the Board, nor was the first class mail returned to the Board. The Agency Subordinate concluded that adequate notice was provided to Ms. DeBerry and the informal conference proceeded in her absence.

3. During Ms. DeBerry's employment at P&S Home Health Care Solutions, Portsmouth, Virginia ("P&S Home Health Care"), while on assignment at a group home from July-August, 2012, until January, 2013:

a. On January 4, 2013 Ms. DeBerry backed Resident A against a wall and yelled at him. The resident, when interviewed, stated that he felt afraid when Ms. DeBerry yelled at him. The resident suffered no injury. The incident was witnessed by another staff member.

b. Ms. DeBerry was habitually late to work, failed to provide baths to the group home's residents on a consistent basis, and failed to turn residents in bed as required.

4. With regard to other home care assignments while employed by P&S Home Health from April 4, 2012 until January 1, 2013, Ms. DeBerry was removed from four home care cases because of complaints from clients' families related to her not providing needed care, sharing personal problems with her clients, and practicing poor personal hygiene.

5. Ms. DeBerry resigned from P&S Home Health Care on January 11, 2013, during the investigation of the incident described in Finding of Fact No. 3(a).

6. Ms. DeBerry failed to meet with the Department of Health Professions investigator but provided a letter to her employer denying all allegations.

CONCLUSIONS OF LAW

1. Findings of Fact Nos. 3(a) and 3(b) constitute violations of § 54.1-3007(2), (5) and (8) of the Code of Virginia (1950), as amended (“Code”), and 18 VAC 90-25-100(2)(e) of the Regulations Governing Certified Nurse Aides.

2. Findings of Fact Nos. 3(a) and 3(b) and Conclusion of Law No. 1 constitute Findings of Abuse and 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. The right of Michia DeBerry to renew her certificate to practice as a nurse aide in Virginia is REVOKED.

2. The certificate will be recorded as revoked.


3. Findings of Abuse and Neglect shall be entered against Ms. DeBerry 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). These findings prohibit Ms. DeBerry’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).

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


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

Entered: Feb 10, 2014

Certified True Copy

By 
Virginia Board Of Nursing