

VIRGINIA:

BEFORE THE BOARD OF NURSING

**IN RE: MARTIN M. MARTIN, C.N.A.
 Certificate No.: 1401-013512**

ORDER

Pursuant to §§ 2.2-4020, 54.1-110 and 54.1-2400(11) of the Code of Virginia (1950), as amended ("Code"), a formal administrative hearing was held before a panel of the Board of Nursing ("Board") on November 19, 2013, in Henrico County, Virginia, to inquire into evidence that Martin M. Martin, C.N.A., may have violated certain laws and regulations governing nurse aide practice in Virginia. The case was presented by Corie E. Tillman Wolf, Assistant Attorney General. Charis Mitchell, Assistant Attorney General, was present as legal counsel for the Board. Mr. Martin was not present and was not represented by legal counsel. The proceedings were recorded by a certified court reporter.

Upon consideration of the evidence presented, the Board adopted the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Martin M. Martin, C.N.A., was issued Certificate No. 1401-013512 to practice as a nurse aide by the Virginia Board of Nursing on July 26, 1989. Said certificate was summarily suspended by the Board on October 8, 2013.
2. Based upon the representations of the Assistant Attorney General, and Commonwealth's Exhibit Nos. 2 and 3, the Notice of Formal Hearing and Statement of Particulars, the Affidavit of Mailing, the Amended Affidavit of Mailing, and the certified mail receipt signed by Mr. Martin's spouse, the presiding officer ruled that adequate notice was provided to Mr. Martin and the hearing proceeded in his absence.
3. During the course of his employment with Our Lady of Peace, Charlottesville, Virginia, on

August 17, 2013, Mr. Martin sexually assaulted Resident A, who was 84 years old, not alert or orientated, non-verbal, and suffered from dementia. Mr. Martin committed the sexual assault by climbing on top of Resident A while she was lying in bed and penetrating her vagina with his penis. A co-worker witnessed the incident.

4. As a result of the above incident, Mr. Martin's employment at Our Lady of Peace was terminated on August 18, 2013, and Mr. Martin has been charged with rape of a helpless victim, a felony, which is currently pending in Albemarle County, Virginia, General District Court.

CONCLUSIONS OF LAW

The Board concludes that:

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 Abuse pursuant to 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D) of the Code of Federal Regulations.

ORDER

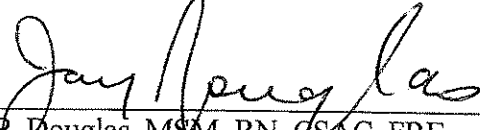
WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS as follows:

1. Certificate No. 1401-013512 of Martin M. Martin, C.N.A., to practice as a certified nurse aide in the Commonwealth of Virginia is hereby REVOKED.
2. The certificate of Mr. Martin will be recorded as REVOKED and no longer current.
3. A finding of abuse shall be ENTERED against Mr. Martin 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 Mr. Martin'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).

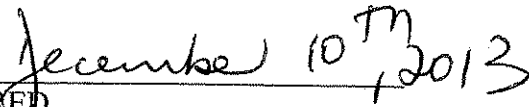
Pursuant to §§ 2.2-4023 and 54.1-2400.2 of the Code, the signed original of this Order shall remain in

the custody of the Department of Health Professions as public record and shall be made available for public inspection or copying on request.

FOR THE BOARD



Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director
Virginia Board of Nursing



ENTERED

NOTICE OF RIGHT TO APPEAL

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 days from the date you are served with this Order in which to appeal this decision by filing a Notice of Appeal with Jay P. Douglas, R.N., M.S.M., C.S.A.C., F.R.E., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. The service date shall be defined as the date you actually received this decision or the date it was mailed to you, whichever occurred first. In the event this decision is served upon you by mail, three days are added to that period.

Certified True Copy

By 

Virginia Board of Nursing