

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: MARY MURRAY, C.N.A.
Certificate No.: 1401-055474

ORDER

In accordance with §§ 2.2-4019, 2.2-4021 and 54.1-2400(7) of the Code of Virginia (1950), as amended ("Code"), an informal conference was conducted on behalf of the Board of Nursing ("Board") on July 2, 2013, in Henrico County, Virginia. Mary Murray, C.N.A., was not present nor was she 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 September 18, 2013, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Murray 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. Mary Murray, C.N.A., was issued Certificate No. 1401-055474 to practice as a nurse aide in Virginia on December 12, 1995. The certificate is scheduled to expire on December 31, 2013.
2. By letter dated June 7, 2013, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Murray notifying her that an informal conference would be held on July 2, 2013. The Notice was sent by certified and first class mail to 2224 Bizzone Circle, Virginia Beach, Virginia, 23464, the address of record on file with the Board of Nursing. The receipt for the Notice sent via certified mail was returned unsigned to the Board office on June 11, 2013, and the Notice was returned to the Board office marked "Attempted - Not Known." The Notice sent via first-class mail was not returned to the

Board. The Agency Subordinate concluded that adequate notice was provided to Ms. Murray and the informal conference proceeded in her absence.

3. On December 13, 2012, during the course of her employment with Georgian Manor Assisted Living Facility, Chesapeake, Virginia, Ms. Murray spoke rudely to and acted inappropriately toward Resident A, an alert and oriented 84-year-old female, while providing care. Specifically:

a. When Resident A asked to go to the bathroom, Ms. Murray told her to “forget [her] G**d***** shoes,” and she told her she would not be taking her to the bathroom all night long.

b. Ms. Murray removed the resident’s cell phone from her room. After another C.N.A. dialed Resident A’s cell phone number, it was heard ringing in the hall. Ms. Murray then returned the phone and threw it on the floor.

c. Ms Murray continued returning to the resident’s room after Resident A had asked Ms. Murray to leave.

4. Ms. Murray’s employment was terminated following these incidents.

5. In an interview with the Department of Health Professions, Ms. Murray denied yelling at the resident or verbally abusing her. She denied taking the resident’s cell phone. She admitted to going back into the resident’s room after the resident had told her to vacate the room.

6. The resident was alert and oriented and a good historian of events. She stated that Ms. Murray was angry when she came in the room and that she thought that Ms. Murray might hit her.

7. Ms. Murray’s previous employments with St. Mary’s Home for Children and Holiday House were terminated, for job abandonment and insubordination, respectively. Ms. Murray is not eligible for re-hire.

8. Ms. Murray initially qualified for unemployment benefits, but the Virginia Employment Commission reversed that decision based on the evidence gathered by the facility during its investigation,

including surveillance video showing Ms. Murray returning to the resident's room and her taking the cell phone.

CONCLUSIONS OF LAW

1. Findings of Fact Nos. 3(a) through 3(c) constitute violations 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. Findings of Fact Nos. 3(a) through 3(c) and Conclusion of Law No. 1 constitute a Finding of Abuse pursuant to 42 CFR § 483.13(c)(1)(ii)(B) and 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D).

ORDER

WHEREFORE, it is hereby ORDERED as follows:


1. Certificate No. 1401-055474 of Mary Murray, C.N.A., is REVOKED.
2. The certificate will be recorded as revoked and no longer current.
3. A Finding of Abuse shall be ENTERED against Ms. Murray 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. Murray'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. Murray failed to appear at the informal conference, this Order shall be considered final. Ms. Murray 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. Murray 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



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

Entered: September 24th, 2013

Certified True Copy

By 

Virginia Board of Nursing