

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: EBONI LEVERE, C.N.A.

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 July 19, 2007, in Henrico County, Virginia, to inquire into evidence that Eboni Levere, C.N.A., may have violated certain laws and regulations governing nurse aide practice in Virginia. The case was presented by Emily Field, Adjudication Specialist, Administrative Proceedings Division. Howard M. Casway, Senior Assistant Attorney General, was present as legal counsel for the Board. Ms. Levere 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. Eboni Levere, C.N.A., was issued Certificate No. 1401-061512 to practice as a nurse aide by the Virginia Board of Nursing on August 24, 1996. Said certificate is set to expire on August 31, 2008.
2. Based upon the representations of Emily Field, Adjudication Specialist, and Commonwealth's Exhibits No. 1 and 2, the notice of formal hearing and affidavit of mailing, the presiding officer ruled that adequate notice was provided to Ms. Levere and the hearing proceeded in the absence of Ms. Levere.
3. During the course of her employment with Visiting Angels, Fredericksburg, Virginia, Eboni Levere, C.N.A., was assigned to provide home health care to Patient A, a 61-year-old quadriplegic who was totally dependent on others for all activities of daily living. On October 6, 2006, Ms. Levere reported for duty with the smell of alcohol on her breath. Subsequently, on October 9, 2006, Ms. Levere failed to report for duty, and failed to inform the family or anyone at the home care agency that she would not be reporting

for duty. As a result, her employment was terminated.

4. On May 16, 2006, Ms. Levere tested positive for marijuana use in a pre-employment drug screen for a nurse aide position with Carriage Hill Nursing and Rehabilitation Center, Fredericksburg, Virginia. As a result, she was deemed not eligible for hire.

5. On January 24, 2007, during an interview with a Department of Health Professions Investigator, Ms. Levere admitted to a history of cocaine and marijuana use, as well as a history of clinical depression that requires medication, and for which she has been hospitalized on three occasions, with her most recent admission being in May 2006. Although referred to the Health Practitioners' Intervention Program in January, 2007, Ms. Levere has not entered into a Participation Contract with the program.

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 Board of Nursing Regulations.
2. Finding of Fact No. 5 constitutes a violation of § 54.1-3007(6).
3. The Committee also concludes that 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, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS as follows:

1. Certificate No. 1401-061512, issued to Eboni Levere, C.N.A., to practice as a nurse aide in the Commonwealth of Virginia, is hereby REVOKED.
2. The certificate of Eboni Levere will be recorded as REVOKED and no longer current. Pursuant to § 54.1-2408.2 of the Code, should Ms. Levere seek reinstatement of her certificate after three

years, she shall be responsible for any fees that may be required for the reinstatement of her certificate prior to issuance of her certificate to resume practice.

3. At such time as Ms. Levere shall petition the Board for reinstatement of her certificate, a hearing will be convened to determine whether she is able to return to the safe and competent nurse aide practice. The reinstatement of Ms. Levere's certificate shall require the affirmative vote of three-fourths of the members at a meeting of the Board.

4. A Finding of Neglect shall be ENTERED against Ms. Levere 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. Levere'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. Levere is eligible to petition the Board for removal of the Finding of Neglect one time, after a period of one (1) 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 §§ 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.

As provided by Rule 2A:2 of the Supreme Court of Virginia, Ms. Levere has thirty (30) days from the service date 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., Executive Director, Board of Nursing, 6603 W. Broad Street, Fifth Floor, Richmond, Virginia 23230-1712. The service date shall be defined as the date Ms. Levere actually received this decision or the date it was mailed to her, whichever occurred first. In the event this decision is served upon her by mail, three (3) days are added to that period.

FOR THE BOARD

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

August 6TH, 2007
ENTERED

Certificate of Service

I hereby certify that a true copy of the foregoing Order was mailed on this day to Eboni Levere, at 12903 Verrey Court, Spotsylvania, Virginia 22553.

Jay P. Douglas
Jay P. Douglas, R.N., M.S.M., C.S.A.C.
Executive Director for the
Board of Nursing

August 6TH, 2007
DATE