

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE:       LORETTA M. SIMMONS, C.N.A. REINSTATEMENT APPLICANT**  
**Certificate No.: 1401-094840**

**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 15, 2013, in Henrico County, Virginia, to receive and act upon the application of Loretta M. Simmons for reinstatement of her certificate to practice as a nurse aide in Virginia, which was mandatorily suspended by the Department of Health Professions on August 12, 2010, and to inquire into evidence that Ms. Simmons may have violated certain laws and regulations governing nurse aide practice in Virginia. The case was presented by Tammie D. Jones, Adjudication Specialist, Administrative Proceedings Division. Braden J. Curtis, Assistant Attorney General, was present as legal counsel for the Board. Loretta M. Simmons 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. Loretta M. Simmons was issued Certificate No. 1401-094840 to practice as a nurse aide in the Commonwealth of Virginia on September 7, 2002. Said certificate was mandatorily suspended pursuant to § 54.1-2409 of the Code by Order of the Department of Health Professions entered on August 12, 2010.
2. Based upon the representations of Tammie Jones and Commonwealth's Exhibit #1, the Notice of Formal Hearing and Affidavit of Mailing, the presiding officer ruled that adequate notice was provided to Ms. Simmons and the hearing proceeded in her absence.
3. Ms. Simmons submitted an application for reinstatement of her certificate to the Board on

March 22, 2013.

4. By Order entered May 26, 1994, by the Circuit Court of the City of Richmond, Virginia, Ms. Simmons was convicted of grand larceny, a felony. Said conviction formed the basis of the mandatory suspension of Ms. Simmons' certificate to practice as a nurse aide in Virginia. Ms. Simmons was sentenced to 20 years incarceration, suspended upon the condition that she keep the peace and be of good behavior for 20 years. She was placed on supervised probation and ordered to make restitution in the amount of \$1609.00, plus court costs.

5. By Order entered February 10, 2011, by the Circuit Court of Chesterfield County, Virginia, Ms. Simmons was convicted of grand larceny, a felony. Said conviction was due to the unauthorized use of Resident A's credit card. Ms. Simmons was sentenced to 5 years incarceration, suspended upon the condition that she be of good behavior for 15 years. She was placed on supervised probation and ordered to make restitution in the amount of \$2945.00, plus court costs. On April 8, 2013, during an interview with an investigator from the Department of Health Professions, Ms. Simmons reported that she had filed Chapter 13 Bankruptcy and included the restitution in that filing.

6. During the course of her employment with Langhorne Family Care, L.L.C., Richmond, Virginia, from May 25, 2010, to July 4, 2010, Ms. Simmons used the credit card of Resident A to make unauthorized purchases totaling \$2500.00.

7. Ms. Simmons has been diagnosed with post traumatic stress disorder and bipolar disorder. She last received counseling at the Chesterfield Community Services Board from November 18, 2010, to May 16, 2012. She was discharged on July 3, 2012, for failing to follow through with counseling. She received medication management from a psychiatrist at the Capital Area Health from January 20, 2011, to January 11, 2013.

8. On her application for certification by examination dated July 17, 2002, Ms. Simmons failed to disclose her 1994 felony conviction.

**CONCLUSIONS OF LAW**

The Board concludes that:

1. Findings of Fact Nos. 4 and 5 constitute a violation of § 54.1-3007(4) of the Code.
2. Finding of Fact No. 6 constitutes a violation of § 54.1-3007(5) and (8) of the Code.
3. Finding of Fact No. 7 constitutes a violation of § 54.1-3007(6) of the Code.
4. Finding of Fact No. 8 constitutes a violation of § 54.1-3007(1) and (5) of the Code and 18 VAC 90-25-100(1)(b) of the Regulations Governing Certified Nurse Aides.
5. Finding of Fact No. 6 and Conclusion of Law No. 2 constitute a finding of misappropriation of patient property pursuant to 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D) of the Code of Federal Regulations.
6. Ms. Simmons has not demonstrated satisfactory evidence that she is prepared to resume practice in a safe and competent manner.

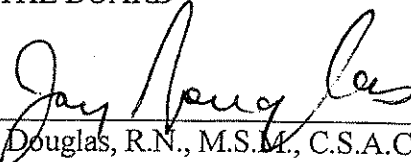
**ORDER**

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

1. The application of Loretta M. Simmons for reinstatement of Certificate No. 1401-094840 to practice as a nurse aide in the Commonwealth of Virginia is hereby DENIED, due to a failure to obtain the affirmative vote for reinstatement of three-fourths of the members of the Board at the hearing. Further, it is hereby ORDERED that the right of Loretta M. Simmons to renew said certificate is hereby REVOKED.
2. A finding of misappropriation of patient property shall be ENTERED against Loretta M. Simmons 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. Simmons' 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).
3. The certificate shall be recorded as revoked.

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, R.N., M.S.M., C.S.A.C.  
Executive Director  
Virginia Board of Nursing

August 5<sup>th</sup>, 2013  
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., 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