

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE: KERRY A. LYNCH, C.N.A. REINSTATEMENT APPLICANT**  
**Certificate No.: 1401-133232**

**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 16, 2013, in Henrico County, Virginia, to receive and act upon Kerry A. Lynch's application for reinstatement of her certificate to practice as a nurse aide in Virginia, which was suspended by the Virginia Department of Health Professions on January 10, 2013, and to inquire into evidence that Ms. Lynch may have violated certain laws and regulations governing nurse aide practice in Virginia. The case was presented by Anne Glick Joseph, Deputy Director, Administrative Proceedings Division. Charis Mitchell, Assistant Attorney General, was present as legal counsel for the Board. Ms. Lynch 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. Kerry A. Lynch, C.N.A., was issued Certificate No. 1401-133232 to practice as a nurse aide in the Commonwealth of Virginia on October 21, 2009. Pursuant to § 54.1-2409 of the Code, said certificate was mandatorily suspended by Order of the Virginia Department of Health Professions on January 10, 2013, due to Ms. Lynch's conviction of a felony offense.
2. Based upon the representations of Anne Joseph and Commonwealth's Exhibit number 1, the Notice of Hearing and Affidavit of Mailing, the chair ruled that adequate notice was provided to Ms. Lynch and the hearing proceeded in her absence.
3. During the course of her employment with Brighter Living Assisted Living Facility, Hopewell,

Virginia, in June 2012, Ms. Lynch stole Resident A's credit/debit card and made unauthorized ATM withdrawals and charges of a value of approximately \$850.00

4. On December 18, 2012, in the Circuit Court for Colonial Heights, Virginia, Ms. Lynch was convicted of one count of felony credit card theft and one count of felony credit card fraud, based on her theft and use of Resident A's card. This conviction formed the basis for the mandatory suspension of her nurse aide certificate by the Department of Health Professions.

5. Ms. Lynch was convicted of misdemeanor destruction of property on March 14, 2005, in the Hopewell, Virginia, General District Court.

6. Ms. Lynch was convicted of falsely identifying herself to a law enforcement officer and driving while suspended on April 14, 2008, in the Dinwiddie County, Virginia, General District Court.

7. On her application for certification by examination as a nurse aide dated September 1, 2009, Ms. Lynch answered "no" to the question pertaining to criminal convictions, when, in fact, she had been convicted of the misdemeanor offenses listed in Findings of Fact Nos. 5 and 6.

8. On her application for employment with Brighter Living Assisted Living, dated April 7, 2011, she falsely indicated that her reason for leaving Lucy Corr Village was "commute closer to home" when, in fact, her employment with Lucy Corr Village had been terminated on May 25, 2010.

#### **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 90-25-200(2)(h) of the Regulations Governing Certified Nurse Aides ("Regulations").
2. Finding of Fact No. 4 constitutes a violation of § 54.1-3007(4) of the Code.
3. Finding of Fact No. 7 constitutes a violation of § 54.1-3007(1) of the Code and 18 VAC 90-25-100(1)(b) of the Regulations.

4. Finding of Fact No. 8 constitutes a violation of § 54.1-3007(2) of the Code and 18 VAC 90-20-300(A)(2)(d) of the Regulations.

5. Finding of Fact No. 3 and Conclusion of Law No. 1 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.

### **ORDER**

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

1. The application of Kerry A. Lynch for reinstatement of her certificate 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.

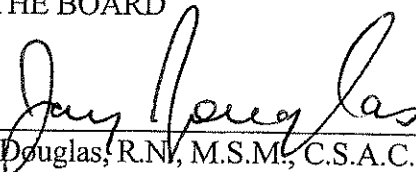
2. The right of Ms. Lynch to renew Certificate No. 1401-133232 to practice as a nurse aide in the Commonwealth of Virginia is hereby REVOKED.

3. The certificate will be recorded as REVOKED.

4. A finding of misappropriation of patient property shall be ENTERED against Ms. Lynch 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. Lynch'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, R.N., M.S.M., C.S.A.C.  
Executive Director  
Virginia Board of Nursing

ENTERED July 25<sup>th</sup>, 2013

**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 dgraham  
Virginia Board of Nursing