

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: KELLY GAYNE, R.N.
License No.: 0001-158556

ORDER

In accordance with §§2.2-4019, 2.2-4021 and 54.1-2400(10) of the Code of Virginia (1950), as amended ("Code"), an informal conference was conducted on behalf of the Board of Nursing ("Board") on November 8, 2011 in Henrico County, Virginia. Kelly Gayne, R.N., was not present nor was she represented by legal counsel. Jane Elliot, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On January 25, 2012, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Gayne 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. Kelly Gayne, R.N., was issued License No. 0001-158556 to practice professional nursing by the Virginia Board of Nursing on April 30, 1998. Said license is set to expire on July 31, 2013. Virginia is Ms. Gayne's primary state of residence.
2. By letter dated October 11, 2011, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Gayne notifying her that an informal conference would be held on November 8, 2011. The Notice was sent by certified and first class mail to 17455 Mill Stone Lane, Bowling Green, Virginia 22427, the address of record on file with the Board of Nursing. The certified

mail receipt was signed by Ms. Gayne and returned to the Board on October 17, 2011. The Agency Subordinate concluded that adequate notice was provided to Ms. Gayne and the informal conference proceeded in her absence.

3. During the course of her employment with N & R Quality Care, Ruther Glen, Virginia, in 2010, at her employer's request, Ms. Gayne affixed her signature to patient assessments which she did not perform on home health patients that she did not visit.

4. Ms. Gayne signed approximately 20 assessments without any review of the contents. Ms. Gayne signed over some signatures which had been removed by using a white-out product. Ms. Gayne was asked to sign the patient assessments because the agency learned that the nurse who completed the assessments was not qualified according to Medicaid regulations.

5. Ms. Gayne stated to an investigator for the Department of Health Profession that she knew this was wrong, but she did so anyway for fear of losing her job. There was no patient harm.

6. Ms. Gayne's employment with N & R Quality Care was terminated on October 27, 2010, for excessive absences. Ms. Gayne's employment was also terminated for excessive absences by her prior employer, Mary Washington HealthCare, Fredericksburg, Virginia.

CONCLUSIONS OF LAW

Findings of Fact Nos. 3-4 constitute a violation of §54.1-3007(2) and (3) of the Code of Virginia (1950), as amended, and 18 VAC 90-20-300(A)(2)(e) of the Regulations Governing the Practice of Nursing.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. KELLY GAYNE, R.N., is hereby REPRIMANDED.
2. Ms. Gayne shall pay a MONETARY PENALTY of \$250.00 to the Board within 30


days of the date this Order is entered.

3. Ms. Gayne shall maintain a course of conduct in her capacity as a professional nurse commensurate with the requirements of §54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

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. Gayne failed to appear at the informal conference, this Order shall be considered final. Ms. Gayne 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. Gayne 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, R.N., M.S.M., C.S.A.C., 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:


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

ENTERED: February 17, 2012

Certified True Copy

By 
Virginia Board of Nursing