

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: OUMIE SABALLY, C.N.A.
Certificate Number: 1401-124968
Issue Date: June 25, 2008
Expiration Date: June 30, 2018
Case Number: 173782

**NOTICE OF FORMAL ADMINISTRATIVE HEARING
AND STATEMENT OF ALLEGATIONS**

You are hereby notified that a Formal Hearing has been scheduled before the Board of Nursing ("Board") regarding your certificate to practice as a nurse aide in the Commonwealth of Virginia.

TYPE OF PROCEEDING:	This is a formal administrative hearing before a panel of the Board.
DATE AND TIME:	November 13, 2017 1:00 P.M.
PLACE:	Virginia Department of Health Professions Perimeter Center - 9960 Mayland Drive 2 nd Floor - Virginia Conference Center Henrico, Virginia 23233

LEGAL AUTHORITY AND JURISDICTION:

1. This formal hearing is being held pursuant to Virginia Code §§ 2.2-4020, 2.2-4024(F), and 54.1-2400(11). This proceeding will be convened as a public meeting pursuant to Virginia Code § 2.2-3700.

2. At the conclusion of the proceeding, the Board is authorized to take any of the following actions:
 - Exonerate you;
 - Reprimand you;
 - Require you to pay a monetary penalty;
 - Place you on probation and/or under terms and conditions;
 - Suspend your certificate;
 - Revoke your certificate.

ABSENCE OF RESPONDENT AND RESPONDENT'S COUNSEL:

If you fail to appear at the formal hearing, the Board may proceed to hear this matter in your absence and may take any of the actions outlined above.

RESPONDENT'S LEGAL RIGHTS:

You have the right to the information on which the Board will rely in making its decision, to be represented by counsel at this proceeding, to subpoena witnesses and/or documents, and to present relevant evidence on your behalf.

COMMONWEALTH'S EXHIBITS:

Enclosed is a copy of the documents that will be distributed to the members of the Board and will be considered by the Board when discussing any allegations with you and when deliberating on your case. **These documents are enclosed only with the notice sent by certified mail, which you may be required to claim at the post office. Please bring these documents with you to the formal hearing.**

FILING DEADLINES:

1. Deadline for filing exhibits: **November 1, 2017**. Submit 15 copies of all documents you want the Board to consider to Darlene Graham, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. Exhibits may not be sent by facsimile or e-mail. Please note that any documentation or evidence that you previously submitted for an informal conference that is not already part of the Commonwealth's evidence must be resubmitted as an exhibit if you want the Board to consider it at the hearing.

The Commonwealth must file any objections to your submissions in writing, addressed to Darlene Graham at the Board office, no later than **November 6, 2017**. If no objections have been received by **November 6, 2017**, the evidence will be distributed to the Board members for their review, and will be considered by the Board as evidence when it deliberates upon your case. If the Commonwealth raises objections, you have until **November 9, 2017**, to file your response to the objections, in writing and addressed to Darlene Graham at the Board office. The Chair of the proceeding will rule on the motion.

2. Deadline for filing motions: **November 1, 2017**, addressed to Darlene Graham at the above address.

3. Deadline for filing any objections to the Commonwealth's exhibits, in writing, to Darlene Graham at the above address: **November 1, 2017**. If you do not file objections by this date, the exhibits will be distributed to the Board members for their review prior to your hearing, and will be considered by the Board as evidence when it deliberates on your case. If you do file objections, the Commonwealth has until **November 6, 2017** to file a response to the objections, in writing, and addressed to Darlene Graham at the Board office. The Chair of the proceeding will rule on the motion. NOTE: failure to object to the distribution of the Commonwealth's exhibits prior to the proceeding will not affect your right to contest any information contained in those exhibits at the proceeding.

REQUEST FOR A CONTINUANCE:

Absent exigent circumstances, such as personal or family illness, a request for a continuance after **November 1, 2017** will not be considered. If you obtain counsel, you should do so as soon as possible, as a motion for a continuance due to the unavailability of counsel will not be considered unless received by **November 1, 2017**.

OTHER IMPORTANT INFORMATION:


If the Board finds that there is sufficient evidence to find you in violation of the allegation(s) stated below and Virginia Code § 54.1-3007(8), the Board shall make a finding of abuse, neglect, and/or misappropriation of patient property, which will be entered in the Virginia Nurse Aide Registry pursuant to 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D) of the Code of Federal Regulations. According to 42 CFR § 483.12(a)(3)(ii), such a finding will prohibit your future employment as a certified nurse aide in any long term care facility that receives Medicare or Medicaid reimbursement.

STATEMENT OF ALLEGATIONS

The Board alleges that:

1. At all times relevant hereto, Oumie Sabally, C.N.A., was certified to practice as a nurse aide in the Commonwealth of Virginia.
2. Ms. Sabally violated Virginia Code § 54.1-3007(2), (5) and (8) and 18 VAC 90-25-100(2)(e) of the Regulations Governing Certified Nurse Aides in that during the course of her employment at The Hermitage, Richmond, Virginia, on or about May 4, 2016, while providing care to Resident A, who was diagnosed with dementia and was being resistant to care, Ms. Sabally hit the resident on the arm several times and spoke to him in a condescending manner. Further, Ms. Sabally failed to intervene when the co-worker who was assisting her repeatedly put a blanket over and/or around Resident A's head, spoke to him rudely and used profanity towards him.

See Confidential Attachment for the name of the resident referenced above.



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

October 18, 2017
Date