



# COMMONWEALTH of VIRGINIA

Sandra Whitley Ryals  
Director

## Department of Health Professions

Perimeter Center  
9960 Mayland Drive, Suite 300  
Richmond, Virginia 23233-1463

www.dhp.virginia.gov  
TEL (804) 367-4400  
FAX (804) 527-4475

Virginia Board of Nursing  
Jay P. Douglas, RN, MSM, CSAC  
Executive Director

Board of Nursing (804) 367-4555  
Nurse Aide Registry (804) 367-4639  
FAX (804) 527-4455

### NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

January 8, 2008

Denise Baxter, C.N.A.  
6289 Cople Hwy.  
Hague, VA 22469

CERTIFIED MAIL  
71603901984518451558

**RE: VA Certificate No.: 1401-112459**  
**Expiration Date: January 31, 2008**

Dear Ms. Baxter:

This letter is official notification that an informal conference of the Virginia Board of Nursing will be held on **February 5, 2008, at 10:30 a.m.**, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Richmond, Virginia. In accordance with §§ 2.2-4019, 2.2-4021, and 54.1-2400(10) of the Code of Virginia (1950), as amended ("Code"), this informal conference will be held before an agency subordinate of the Board of Nursing. This informal conference will be convened as a public meeting pursuant to § 2.2-3700 *et seq.* of the Code. The agency subordinate will inquire into allegations that you may have violated certain laws and regulations governing nurse aide practice in Virginia.

Specifically:

1. You may have violated § 54.1-3007(2), (3), (5), (6) and (8) of the Code and 18 VAC 90-25-100(2)(c) and (h) of the Regulations Governing Certified Nurse Aides in that, during the course of your employment with Interim Healthcare, Fredericksburg, Virginia, while providing home health care to Patient A, during your first assigned shift, you asked the patient what medications he was prescribed and where they were kept. He informed you that he took Oxycontin (oxycodone, Schedule II) and morphine (Schedule II). On or about October 15, 2007, during your second assigned shift, you asked Patient A if he had any extra medication because you had sprained your ankle and were prescribed the same medication. Patient A responded no and observed you enter his bedroom with his daily pill container, supposedly to put it away in the nightstand. Subsequent to exiting his bedroom, you exhibited a change in behavior, similar to the side-effects of the medications. When he retrieved the container later to take a scheduled dose, the drawer appeared to have been rummaged, and one Oxycontin and one morphine pill were missing. As a result of this incident, your employment was terminated.



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388 Morris Lane  
Montross, Virginia 22520

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Specifically:

1. You may have violated § 54.1-3007(2), (3), (5), (6) and (8) of the Code and 18 VAC 90-25-100(2)(c) and (h) of the Regulations Governing Certified Nurse Aides in that, during the course of your employment with Interim Healthcare, Fredericksburg, Virginia, while providing home health care to Patient A, during your first assigned shift, you asked the patient what medications he was prescribed and where they were kept. He informed you that he took Oxycontin (oxycodone, Schedule II) and morphine (Schedule II). On or about October 15, 2007, during your second assigned shift, you asked Patient A if he had any extra medication because you had sprained your ankle and were prescribed the same medication. Patient A responded no and observed you enter his bedroom with his daily pill container, supposedly to put it away in the nightstand. Subsequent to exiting his bedroom, you exhibited a change in behavior, similar to the side-effects of the medications. When he retrieved the container later to take a scheduled dose, the drawer appeared to have been rummaged, and one Oxycontin and one morphine pill were missing. As a result of this incident, your employment was terminated.

2. You may have violated § 54.1-3007(4) of the Code in that, on or about November 8, 2007, in the General District Court of Essex County, Virginia, you were convicted of larceny, less than \$200, a misdemeanor. Said conviction resulted from writing a bad check to a retail store. You were sentenced to 60 days in jail, suspended, and ordered to perform 20 hours of community service, make restitution and pay court costs.

Please see Attachment A for the name of the patient referenced above.

In its deliberations, the agency subordinate may use the Sanction Reference Points System, as contained in the Sanction Reference Manual. The manual, which is a guidance document of the Board, may be accessed at <http://www.dhp.virginia.gov/nursing>. Please click on *Guidance Documents*, then select #90-7. You may also request a paper copy from the Board office by calling (804) 367-4515.

After consideration of all information, the agency subordinate may:

- If the agency subordinate finds that there is insufficient evidence to warrant further action or that the charges are without foundation, notify you by mail that your record has been cleared of any charge which might affect your right to practice as a nurse aide in the Commonwealth;

- Recommend findings of fact, conclusions of law and a sanction, to include a reprimand, placing you on probation with terms, suspension or revocation of your certificate, or imposing a monetary penalty pursuant to § 54.1-2401 of the Code.

Further, the agency subordinate may refer this matter for a formal administrative proceeding pursuant to § 2.2-4020 of the Code.

If the agency subordinate finds that there is sufficient evidence to find you in violation of the above charge(s) and § 54.1-3007(8) of the Code, the agency subordinate shall recommend that the Board make a finding of abuse, neglect, 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 § 483.13(c)(1)(ii)(B), 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.

Since the allegations listed above involve impairment, please be advised that you may make application to the Health Practitioners' Intervention Program ("HPIP"), which is available to all health care practitioners licensed in Virginia. A brochure about the HPIP is enclosed. Should you enter into a written agreement with the HPIP prior to your informal conference, the agency subordinate will take that into consideration when making a recommendation in your case.

**Board's Review of Agency Subordinate's Recommended Decision**

If you **appear in person or by counsel at the informal conference**, the recommendation of the agency subordinate will be presented to a quorum of the Board. The Board may accept or modify the recommendation, or reject the recommendation and move the case to formal hearing. If you do not agree with the decision of the Board, you have the right to a formal administrative hearing before the Board.

If you **fail to appear in person or by counsel at the informal conference**, the recommendation of the agency subordinate will be presented to a quorum of the Board. The Board may accept or modify the recommendation, or reject the recommendation. The Board's decision regarding the agency subordinate's recommendation is a final order that can only be appealed to circuit court as provided by Rule 2A:2 of the Supreme Court of Virginia.

You have the right to information that will be relied upon by the agency subordinate in making a decision. Therefore, I enclose a copy of the documents that will be distributed to the agency subordinate, and will be considered when discussing the allegations with you and when deliberating upon your case. **These documents are enclosed only with the original notice sent by certified mail, which you may be required to claim at the post office. Please bring these documents with you to the informal conference.**

To facilitate this proceeding, you should submit five copies of any documents you wish the agency subordinate to consider to the Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, by January 29, 2008. Your documents may not be submitted by facsimile or email.

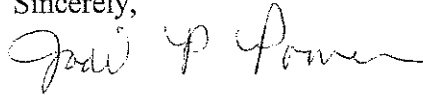
You may be represented by an attorney at the informal conference. If you obtain counsel, you should do so as soon as possible, because absent good cause to support a request for a continuance, the informal conference will be held on February 5, 2008. A request to continue this proceeding must state **in detail** the reason for the request and must establish good cause. Such request must be made, in writing, to me at the address listed on this letter and must be received by 12 noon on January 29, 2008. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after January 29, 2008, will not be considered

Relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as laws relating to the practice of nursing and other healing arts in Virginia cited in this notice can be found on the Internet at <http://leg1.state.va.us>. To access this information, please click on the *Code of Virginia* for statutes and *Virginia Administrative Code* for regulations.

Please advise the Board, in writing, of your intention to be present. If you have any questions regarding this notice, please contact this office, at (804) 367-4543.

In the event of inclement weather, please be advised that Board of Nursing hearings will be held unless state offices are closed. Please listen to television or radio announcements to provide information about official state closings or delays. If there is a delayed opening, hearings will begin at the time of the agency opening. A recorded announcement pertaining to closings or delays will also be available by calling the main telephone number for the Department of Health Professions at (804) 367-4400.

Sincerely,



Jodi P. Power, R.N., J.D.  
Deputy Executive Director  
Nurse Aide Registry Manager

Enclosures

cc: Sandra Whitley Ryals, Director, Department of Health Professions  
Anne Joseph, Deputy Director, Administrative Proceedings Division  
Tammie D. Jones, Adjudication Specialist  
Ron Houser, Senior Investigator (117105/117106)  
Agency Subordinate  
Peggy Wood, Intervention Program Manager