

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: DENISE MICHELLE SMITH BAXTER, C.N.A.
Certificate Number: 1401-112459
Expiration Date: January 31, 2017
Case Number: 174632

**NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE
AND STATEMENT OF ALLEGATIONS**

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

TYPE OF PROCEEDING:	This is an informal conference before an Agency Subordinate of the Board.
DATE AND TIME:	March 9, 2017 at 9:00 a.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 informal conference is being held pursuant to Virginia Code §§ 2.2-4019 and 54.1-2400(10). This proceeding will be convened as a public meeting pursuant to Virginia Code § 2.2-3700.

2. After consideration of all information, the Agency Subordinate is authorized to take any of the following actions:

- 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 Virginia Code § 2.2-4020.

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 refer the case to a 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 and refer the case to a formal hearing. 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.

ABSENCE OF RESPONDENT AND RESPONDENT'S COUNSEL:

If you fail to appear at the informal conference, the Agency Subordinate 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 Agency Subordinate will rely in making a decision, to be represented by counsel at this proceeding, to subpoena witnesses and/or documents, and to present relevant evidence on your behalf.

INFORMAL CONFERENCE MATERIALS:

Enclosed is a copy of the documents that will be considered by the Agency Subordinate 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 informal conference.**

FILING DEADLINES:

1. Deadline for filing materials: March 2, 2017. Submit 5 copies of all documents you want the Board to consider to Brenda Krohn, RN, MS, Deputy Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. Exhibits may not be sent by facsimile or e-mail.
2. Deadline for filing motions, including requests for continuance or objections to materials, in writing, to Brenda Krohn, RN, MS, Deputy Executive Director, at the above address: March 2, 2017. NOTE: the failure to object to materials does not deprive you of the right to contest their contents at the proceeding.

REQUEST FOR A CONTINUANCE

Absent exigent circumstances, such as personal or family illness, a request for a continuance after **March 2, 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 **March 2, 2017**.

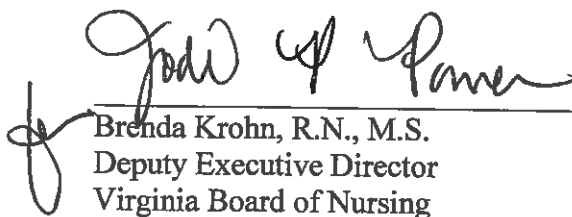
OTHER IMPORTANT INFORMATION:

If the Agency Subordinate 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 Agency Subordinate shall recommend that the Board 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 § 483.13(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.

STATEMENT OF ALLEGATIONS

The Board alleges that:

1. At all times relevant hereto, Denise Michelle Smith Baxter, C.N.A., was certified to practice as a nurse aide in the Commonwealth of Virginia.
2. Ms. Baxter violated Virginia Code § 54.1-3007(2), (5), and (8) and 18 VAC 90-25-100(2)(c) and (h) of the Regulations Governing Certified Nurse Aides (“Regulations”) in that during the course of her employment at a private residence in Montross, Virginia, on or about June 19, 2016:
 - a. By her own admission, she diverted nine or ten Ativan (lorazepam, C-IV) pills from her client’s personal stock, for her own personal and unauthorized use.
 - b. As a result of her diversion, she pled guilty to and was convicted of misdemeanor possession of a controlled substance in the Westmoreland County, Virginia, Circuit Court.
3. Ms. Baxter violated Virginia Code § 54.1-3007(6) in that she is unsafe to practice as a nurse aide due to substance abuse. By her own admission, Ms. Baxter has been addicted to opioid medications for three years and has been abusing oxycodone (C-II) that she obtains from friends.
4. Ms. Baxter violated Virginia Code § 54.1-3007(4) in that on October 27, 2016, she pled guilty to and was convicted of misdemeanor larceny, a crime of moral turpitude, in the Westmoreland County Circuit Court.


Brenda Krohn, R.N., M.S.
Deputy Executive Director
Virginia Board of Nursing

February 2, 2017
Date