

**BEFORE THE VIRGINIA BOARD OF NURSING AND THE COMMITTEE OF THE JOINT  
BOARDS OF NURSING AND MEDICINE**

**IN RE: HEATHER KISER DUTY, R.N., L.N.P.**

**R.N. License Number: 0001-153386**  
**L.N.P. License Number: 0024-000084**  
**Authorization to Prescribe: 0017-136873**  
**R.N. Expiration Date: October 31, 2018**  
**L.N.P. Expiration Date: October 31, 2018**  
**Case Numbers: 174454, 174455**

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

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**You are hereby notified that an informal conference has been scheduled before an Agency Subordinate of the Board of Nursing ("Board") and the Committee of the Joint Boards of Nursing and Medicine ("Committee of the Joint Boards") regarding your licenses to practice as a registered nurse and a nurse practitioner in the Commonwealth of Virginia.**

<b>TYPE OF PROCEEDING:</b>	This is an informal conference before an Agency Subordinate of the Board of Nursing and the Committee of the Joint Boards of Nursing and Medicine.
<b>DATE AND TIME:</b>	<b>August 3, 2017 at 1:00 p.m.</b>
<b>PLACE:</b>	Virginia Department of Health Professions Perimeter Center - 9960 Mayland Drive 2 <sup>nd</sup> 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 licensed nurse practitioner and/or as a professional nurse 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 license(s), 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 and a quorum of the Committee of the Joint Boards. The Board or the Committee of the Joint Boards 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 or the Committee of the Joint Boards, you have the right to a formal administrative hearing before the Board or the Committee of the Joint Boards.

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 and a quorum of the Committee of the Joint Boards. The Board or the Committee of the Joint Boards may accept or modify the recommendation, or reject the recommendation and refer the case to a formal hearing. The Board's and the Committee of the Joint Boards' 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:**

Deadline for filing materials: **July 27, 2017**. Submit 5 copies of all documents you want the Board and the Committee of the Joint Boards 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.

### **REQUEST FOR A CONTINUANCE**

Absent exigent circumstances, such as personal or family illness, a request for a continuance after **July 27, 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 **July 27, 2017**.

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## STATEMENT OF ALLEGATIONS

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The Board of Nursing and the Committee of the Joint Boards of Nursing and Medicine allege that:

1. At all times relevant hereto, Heather Kiser Duty, R.N., L.N.P., was licensed to practice professional nursing and as a nurse practitioner in the category of family nurse practitioner in the Commonwealth of Virginia.
2. During the course of her employment as owner of Tazewell Family Healthcare (a/k/a Tazewell Family Health), Tazewell, Virginia:
  - a. Ms. Duty violated Virginia Code § 54.1-3007(5), 18 VAC 90-30-220(3) and (4) and 18 VAC 90-30-120(C) and (E) of the Regulations Governing the Licensure of Nurse Practitioners, and 18 VAC 90-40-130(1) of the Regulations for Prescriptive Authority for Nurse Practitioners in that between or about October 6, 2010 and February 15, 2016, she failed to maintain and practice under a practice agreement with a collaborating team physician.
  - b. Ms. Duty violated Virginia Code § 54.1-3007(5), 18 VAC 90-20-300A)(2)(d) of the Regulations Governing the Practice of Nursing (currently found at 18 VAC 90-19-230(A)(2)(d), effective February 24, 2017), and 18 VAC 90-30-220(4) and (6) of the Regulations Governing the Licensure of Nurse Practitioners in that between or about 2014 and February 15, 2016, on multiple occasions, she allowed unqualified and unlicensed employees to provide unsupervised care to and prescribe medications to multiple patients, in violation of 18 VAC 90-20-300(A)(2)(a) and 18 VAC 90-20-460(B) of the Regulations Governing the Practice of Nursing (currently found at 18 VAC 90-19-230(A)(2)(a) and 18 VAC 90-19-280(B), effective February 24, 2017).
  - c. Ms. Duty violated Virginia Code § 54.1-3007(5) and 18 VAC 90-30-220(4) of the Regulations Governing the Licensure of Nurse Practitioners in that she failed to maintain complete

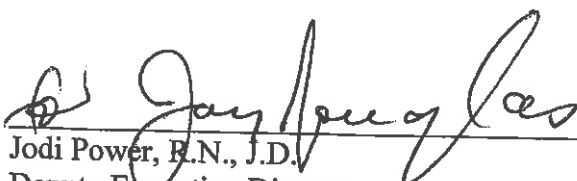
and accurate medical records on all patients treated at Tazewell Family Healthcare. Specifically, multiple patient files were missing complete visit notes, diagnoses, or notes on medications she prescribed according the patients' Prescription Monitoring Program reports. Some patients did not have medical charts or weight loss clinic charts at all.

d. Ms. Duty violated Virginia Code §§ 54.1-3007(2), (5), and (8) and 54.1-3408, and 18 VAC 90-20-300(A)(2)(f) of the Regulations Governing the Practice of Nursing (currently found at 18 VAC 90-19-230(A)(2)(f), effective February 24, 2017), and 18 VAC 90-30-220(4) of the Regulations Governing the Licensure of Nurse Practitioners, as evidenced by the following:

i. Between or about 2014 and 2016, she provided sample medications to Patient A for diabetes, including Bydureon (exenatide), without documenting those medications in Patient A's record. Further, Patient A's hemoglobin A1C test had not been performed since on or about August 11, 2015 and Patient A had not been seen for an office visit since on or about April 8, 2015.

ii. On or about June 25, 2015, she completed a CDL driver fitness determination form for Patient B. There are no notes or records that Patient B had an office visit on that date. Further, Patient B falsely indicated that he did not use any narcotic or habit forming drugs on the CDL driver fitness determination form. Ms. Duty had prescribed Patient B oxycodone (C-II) in April 2015 and again on or about June 25, 2015.

See Confidential Attachment for the names of the patients referenced above.

  
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Jodi Power, R.N., J.D.  
Deputy Executive Director  
Virginia Board of Nursing

July 13<sup>TH</sup>, 2017  
Date