



COMMONWEALTH of VIRGINIA

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Robert A. Nebiker
Director

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

July 22, 2005

CERTIFIED MAIL-RETURN RECEIPT REQUESTED
(ARTICLE NO. 71603901984887243198)

Kimberly G. Lambert, C.N.A.
20 Patriot Drive
Waynesboro, Virginia 22980

RE: File Number 98136
Certificate No. 1401-102928 – Expires April 30, 2006

Dear Ms. Lambert:

This is official notification that an Informal Conference will be held pursuant to § 2.2-4019, § 2.2-4021 and § 54.1-2400(10) of the Code of Virginia (1950), as amended (“Code”), on **August 30, 2005, at 2:00 p.m.**, at the Department of Health Professions, 6603 W. Broad Street, Fifth Floor, Richmond, Virginia 23230. You may be represented by an attorney at the conference.

The Special Conference Committee, which is comprised of at least two members of the Virginia Board of Nursing, will inquire into allegations that you may have violated certain laws and regulations governing nurse aide practice in Virginia. Specifically:

During the course of your employment with Augusta Nursing and Rehabilitation Center, Fishersville, Virginia:

1. You may be in violation of § 54.1-3007(2), (5) and (8) of the Code, and 18 VAC 90-25-100(2)(e) of the Board of Nursing Regulations effective September 8, 2004, previously 18 VAC 90-20-360(2)(e), in that, on or about July 12, 2004, you spoke to Resident A in a rude and hateful manner, slammed her beside commode down, and flung the resident’s walker at her. Specifically, in a hateful and rude tone, you stated to the resident, “What do you want now,” or words to that effect. Resident A reported that she was scared of you.
2. You may be in violation of § 54.1-3007(2), (5) and (8) of the Code, and 18 VAC 90-25-100(2)(e) of the Board of Nursing Regulations effective September 8, 2004, previously 18 VAC 90-20-360(2)(e), in that, on or about July 12, 2004, Resident A reported that you spoke rudely to her roommate, Resident B, who is cognitively impaired. It was reported that you told Resident B to

quiet down, and "we don't need that," as the resident was flailing her arms. As a result of the incident with Residents A and B, your employment was terminated.

3. You may be in violation of § 54.1-3007(5) of the Code, in that, on or about April 28, 2004, you were counseled for insubordination, specifically, yelling at your supervisor in the presence of a resident. The counseling noted that further behavior could result in termination.
4. You may be in violation of § 54.1-3007(2), (5) and (8) of the Code, and 18 VAC 90-25-100(2)(e) of the Board of Nursing Regulations effective September 8, 2004, previously 18 VAC 90-20-360(2)(e), in that, on or about August 5, 2003, you were counseled for being verbally abusive and disrespectful to a cognitively impaired resident. Specifically, when the resident was attempting to climb out of her gerichair, you stated to this resident in a hostile tone, "that's what you get for trying to get out," or words to that effect.
5. You may be in violation of § 54.1-3007(2), (3) and (5) of the Code, and 18 VAC 90-25-100(2)(d) of the Board of Nursing Regulations effective September 8, 2004, previously 18 VAC 90-20-360(2)d), in that, by your own admission, from March 26, 2003 through April 12, 2004, you practiced as a certified nurse aide, using the C.N.A. designation, without holding a valid certificate issued by the Virginia Board of Nursing.

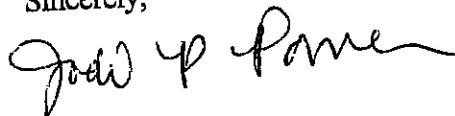
The Conference Committee is authorized, after meeting with you, to take one of the following actions:

1. If the Committee finds that there is insufficient evidence to warrant further action or that the charges are without foundation, the Committee shall 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;
2. The Committee may place you on probation with such terms as it may deem appropriate;
3. The Committee may reprimand you;
4. The Committee may impose a monetary penalty pursuant to § 54.1-2401 of the Code; or
5. The Committee may refer the case to the Board of Nursing or a panel thereof for a formal hearing. If the Conference Committee is of the opinion that a suspension or revocation of your certificate may be justified, the Committee may offer you a consent order in lieu of a formal hearing.
6. If the committee 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 committee shall 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) of the federal regulations, such a finding will prohibit your future employment as a certified nurse aide in any long term care facility, which receives Medicare or Medicaid reimbursement.

If you fail to appear at the informal conference, the Conference Committee may proceed to hear the case in your absence, and may take any of the actions outlined above. Please inform this office at (804) 662-7165 about whether you intend to appear at the conference at least ten (10) days prior to the scheduled date specified above. Also, please inform the Board office of a telephone number where you may be reached.

If you have any additional documents to be presented to the Conference Committee, please bring five (5) copies of each document with you. You have the right to information that will be relied upon by the Board in making a decision. Therefore, I have enclosed a copy of the documents that will be distributed to the members of the Committee and will be considered by the Committee 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, and must be claimed at the post office. Also, enclosed are copies of the relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as laws and regulations relating to the practice of nurse aides in Virginia that are cited in this notice.

Sincerely,



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

JPP/gem/jjr

Enclosures

cc: Robert A. Nebiker, Director
Robin Hamilton, Investigator (98136)
James L. Banning, Director for Adm. Proceedings
Gayle E. Miller, Adjudication Specialist