

**BEFORE THE VIRGINIA BOARD OF NURSING**

**IN RE: MALORY JOYCE EANES, L.P.N.**  
**License Number: 0002-085802**  
**Expiration Date: September 30, 2018**  
**Case Number: 175074, 173460**

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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") regarding your license to practice practical nursing in the Commonwealth of Virginia.**

<b>TYPE OF PROCEEDING:</b>	This is an informal conference before an Agency Subordinate of the Board.
<b>DATE AND TIME:</b>	March 7, 2017 at 2:00 p.m.
<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 practical nursing 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, 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 1, 2017. Submit 5 copies of all documents you want the Board to consider to Sylvia Tamayo-Suijk, 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 Sylvia Tamayo-Suijk at the above address: March 1, 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 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 **March 1, 2017**.

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**STATEMENT OF ALLEGATIONS**

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The Board alleges that:

1. At all times relevant hereto, Malory Joyce Eanes, L.P.N., was licensed to practice practical nursing in the Commonwealth of Virginia.
2. Ms. Eanes violated Virginia Code § 54.1-3007(2), (5), and (8) and 18 VAC 90-20-300(A)(2)(c) and (e) of the Regulations Governing the Practice of Nursing (“Regulations”) in that during the course of her employment with Pheasant Ridge Nursing and Rehabilitation Center, Roanoke, Virginia, on or about April 23, 2016, Ms. Eanes withdrew one tablet of oxycodone 5mg (C-II) for Patient A, who was not at the facility, falsely documented wasting the tablet with her supervisor, and diverted the medication for her personal and unauthorized use. Ms. Eanes’ supervisor denied co-signing the medication waste.
3. Ms. Eanes violated Virginia Code § 54.1-3007(6) in that she is unsafe to practice practical nursing due to mental illness, substance abuse, chemical dependency, and/or physical illness, as evidenced by the following:
  - a. On or about April 4, 2013, Ms. Eanes was a no call/ no show for work at Avante at Roanoke, Roanoke, Virginia secondary to a suicide attempt.
  - b. On or about May 23, 2016, at the request of an investigator for the Department of Health Professions, Ms. Eanes submitted a urine drug screen that was positive for marijuana. Ms. Eanes subsequently admitted to smoking marijuana in April 2016.
  - c. On or about July 7, 2016, Ms. Eanes received emergency treatment at the Roanoke Memorial Hospital, Roanoke, Virginia, for suicidal ideation and chronic hip pain. Ms. Eanes’ diagnoses included major depressive disorder, single episode, unspecified; other chronic pain; pain in left hip; cannabis use, unspecified, uncomplicated; and personal history of self-harm.

d. Between or about July 7, 2016 and July 11, 2016, Ms. Eanes received inpatient psychiatric treatment at Carilion Clinic, Roanoke Rehab Building, Roanoke, Virginia. Her discharge diagnosis was major depressive disorder, severe recurrent, without psychotic features.

e. Between or about July 15, 2016 and July 18, 2016, Ms. Eanes received inpatient psychiatric treatment at Carilion Clinic, New River Valley Medical Center, Christiansburg, Virginia, pursuant to a temporary detention order. Her discharge diagnoses included major depressive disorder, recurrent, severe, without psychotic features and polysubstance abuse by history.

f. On or about July 15, 2016, after being admitted to the New River Valley Medical Center, Ms. Eanes submitted a urine drug screen that was positive for marijuana.

g. In a letter to an investigator for the Department of Health Professions dated October 26, 2016, Ms. Eanes' physician from Carilion Family Medicine, Salem, Virginia, wrote that he had terminated her controlled substance agreement and that he would no longer prescribe her controlled substances following an abnormal urine drug screen on or about October 7, 2016.

4. Ms. Eanes violated Virginia Code § 54.1-3007(5) and (6) in that during the course of her employment with Franklin Health and Rehab, Rocky Mount, Virginia, on or about July 12, 2012, Ms. Eanes reported to work smelling of alcohol and made comments about drinking before coming to work. In addition, she was observed by multiple coworkers behaving inappropriately by cursing, talking loudly, inappropriately touching a coworker, and acting and becoming confrontational and insubordinate when questioned about her behavior.

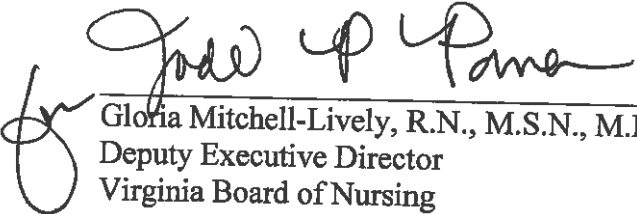
5. Ms. Eanes violated Virginia Code § 54.1-3007(2) and 18 VAC 90-20-300(A)(2)(e) of the Regulations, in that she provided incomplete or inaccurate information in connection with employment applications, as evidenced by the following:

a. On her application for employment for Pheasant Ridge Nursing and Rehabilitation Center dated December 8, 2015, Ms. Eanes omitted her previous employment with Franklin Health and Rehab, where she worked from on or about April 10, 2012 until her employment was terminated on or about July 19, 2012 due to the conduct described in Allegation No. 4.

b. On her application for employment with Richfield Retirement Community, Salem, Virginia dated March 9, 2015, Ms. Eanes falsely answered “no” to a question asking if she had ever been discharged or asked to resign from a position. In fact, Ms. Eanes’ employment with Pheasant Ridge Nursing and Rehabilitation Center had been terminated on or about April 10, 2012 due to the conduct described in Allegation No. 4.

Pursuant to Virginia Code § 54.1-2400.2(K), the Board considered whether to disclose or not disclose Ms. Eanes’s health records or health services.

See Confidential Attachment I for the name of the patient referenced above.

  
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Gloria Mitchell-Lively, R.N., M.S.N., M.B.A.  
Deputy Executive Director  
Virginia Board of Nursing

February 8, 2017  
Date