

**BEFORE THE VIRGINIA BOARD OF NURSING**

**IN RE:           MARY J. TOOLE, R.N.**  
**License Number:   0001-247274**  
**Expiration Date:   September 30, 2017**  
**Case Number:       172446**

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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 professional 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>	January 12, 2017 at 9:00 a.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 professional 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: January 5, 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: January 5, 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 **January 5, 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 **January 5, 2017**.

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**STATEMENT OF ALLEGATIONS**

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The Board alleges that:

1. At all times relevant hereto, Mary J. Toole, R.N., was licensed to practice professional nursing in the Commonwealth of Virginia.

2. Ms. Toole violated Virginia Code § 54.1-3007(6) in that she is unsafe to practice professional nursing due to substance abuse and/or mental and/or physical illness, as evidenced by the following:


a. By her own admission, Ms. Toole is dependent on oxycodone (C-II) and oxycontin (C-II), which she takes for treatment of back pain.

b. From about December 3, 2015, through about December 10, 2015, Ms. Toole was hospitalized at Riverside Behavioral Health Center following a suicide attempt, and her discharge diagnoses included major depression, recurrent, severe without psychosis, and cocaine use disorder, mild.

c. Ms. Toole's therapist, a licensed professional counselor, stated in an interview with the Department of Health Professions investigator on April 20, 2016, that he had concerns about her ability to safely practice due to grief and legal issues related to her arrest and impending trial for possession of methamphetamines in the Circuit Court of the City of Hampton, Virginia.

3. Ms. Toole violated Virginia Code § 54.1-3007(5) and (6) in that in or about January 2016, during the course of her employment with Medi Home Health & Hospice, Chesapeake, Virginia, Ms. Toole was observed to be falling asleep at work regularly. In addition, a for-cause employment drug screen administered to her on or about January 21, 2016, was positive for cocaine.

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

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

December 14, 2016  
Date