



COMMONWEALTH of VIRGINIA

Sandra Whitley Ryals
Director

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

www.dhp.virginia.gov
TEL (804) 367- 4400
FAX (804) 527- 4475

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

Board of Nursing (804) 367-4555
Nurse Aide Registry (804) 367-4639
FAX (804) 527-4455

NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

November 10, 2009

Summer Brooke Lane, L.P.N.
Route 3, Box 950 D
Big Stone Gap, Virginia 24219

CERTIFIED MAIL
71603901984801632886

And

452 E. Jackson Street
Gate City, Virginia 24251

CERTIFIED MAIL
71603901984801632893

RE: VA License No.: 0002-074569
Expiration Date: May 31, 2010

Dear Ms. Lane:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **December 16, 2009, at 1:00 p.m.**, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Richmond, Virginia. In accordance with §§ 2.2-4019, 2.2-4021, and 54.1-2400(10) of the Code of Virginia (1950), as amended ("Code"), this informal conference will be held before an agency subordinate of the Board of Nursing. This informal conference will be convened as a public meeting pursuant to § 2.2-3700 *et seq.* of the Code. The agency subordinate will inquire into allegations that you may have violated certain laws and regulations governing practical nursing practice in Virginia.

Specifically,

1. You may have violated § 54.1-3007(2), (5) and (6) of the Code and 18 VAC 90-20-300(A)(2)(c) and (e) of the Regulations Governing the Practice of Nursing in that, during the course of your employment with Holston Manor, Kingsport, Tennessee, by your own admission, on or about July 6, 2009, you diverted a

partial blister pack of Roxicet (oxycodone, Schedule II), one morphine capsule (Schedule II) and four Percocet tablets (oxycodone, Schedule II), for your personal and unauthorized use. You accomplished this diversion by signing out the medications for specific patients, documenting the medications as administered, and keeping them for your personal use.

2. You may have violated § 54.1-3007(6) of the Code in that you may be unable to practice nursing safely due to substance abuse and/or physical illness. Specifically,

a. On or about October 2, 2009, in an interview with an investigator for the Department of Health Professions, you admitted that you have had a drug problem for a couple of years; were addicted to all narcotics; consumed drugs while working; and were "definitely" impaired while working.

b. On or about July 6, 2009, you were found by the Scott County, Virginia, Police Department to be in possession of one morphine tablet, four Percocet tablets, three Lortab tablets (hydrocodone, Schedule III), and seven Roxicet tablets (oxycodone, Schedule II). You did not have legitimate prescriptions for any of these medications.

c. On or about March 24, 2009, you submitted to a random urine drug screen which tested positive for oxycodone and barbiturates. You did not have legitimate prescriptions for these medications.

d. Since on or before December 4, 2007, you have received medical treatment for chronic back and leg pain, for which you have been prescribed narcotic medications. Despite your admission to a practitioner in September 2008, that you were addicted to the narcotics and wanted help, you continued to obtain narcotic medications from other practitioners in increasing amounts.

In its deliberations, the agency subordinate may use the Sanction Reference Points System, as contained in the Sanction Reference Manual. The manual, which is a guidance document of the Board, may be accessed at <http://www.dhp.virginia.gov/nursing>. Please click on *Guidance Documents*, then select #90-7. You may also request a paper copy from the Board office by calling (804) 367-4515.

After consideration of all information, the agency subordinate may:

- 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 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 § 2.2-4020 of the Code.

Since the allegations listed above involve impairment, please be advised that you may make application to the Health Practitioners' Monitoring Program ("HPMP"), which is available to all health care practitioners licensed in Virginia. Information about the HPMP is enclosed. Should you enter into a written agreement with

the HPMP prior to your informal conference, the agency subordinate will take that into consideration when making a recommendation in your case.

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 move the case to 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. 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.

You have the right to information that will be relied upon by the agency subordinate in making a decision. Therefore, I enclose a copy of the documents that will be distributed to the agency subordinate, and will be considered 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, which you may be required to claim at the post office. Please bring these documents with you to the informal conference.**

To facilitate this proceeding, you should submit five copies of any documents you wish the agency subordinate to consider to the Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, by December 7, 2009. Your documents may not be submitted by facsimile or email.

You may be represented by an attorney at the informal conference. If you obtain counsel, you should do so as soon as possible, because absent good cause to support a request for a continuance, the informal conference will be held on December 16, 2009. A request to continue this proceeding must state **in detail** the reason for the request and must establish good cause. Such request must be made, in writing, to me at the address listed on this letter and must be received by 12 noon on December 7, 2009. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after December 7, 2009, will not be considered.

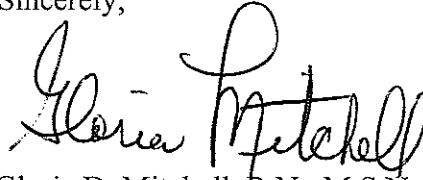
Relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as laws relating to the practice of nursing and other healing arts in Virginia cited in this notice can be found on the Internet at <http://leg1.state.va.us>. To access this information, please click on the *Code of Virginia* for statutes and *Virginia Administrative Code* for regulations.

Please advise the Board, in writing, of your intention to be present. If you have any questions regarding this notice, please contact this office, at (804) 367-4576.

In the event of inclement weather, please be advised that Board of Nursing hearings will be held unless state offices are closed. Please listen to television or radio announcements to provide information about official state closings or delays. If there is a delayed opening, hearings will begin at the time of the agency opening. A recorded

announcement pertaining to closings or delays will also be available by calling the main telephone number for the Department of Health Professions at (804) 367-4400.

Sincerely,

A handwritten signature in black ink that reads "Gloria Mitchell". The signature is written in a cursive style with a large initial "G" and "M".

Gloria D. Mitchell, R.N., M.S.N., M.B.A.
Deputy Executive Director, Discipline

Enclosures

cc: Anne J. Joseph, Deputy Director, Administrative Proceedings Division
Mary Beth Shelton, Adjudication Specialist
Rachel Shaw, Senior Investigator (Case no. 126953)
Agency Subordinate
Peggy Wood, Monitoring Program Manager