

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: JESSICA LYNN YAO, R.N. REINSTATEMENT APPLICANT
License Number: 0001-257591
Suspension Date: February 23, 2017
Case Number: 180398

**NOTICE OF FORMAL ADMINISTRATIVE HEARING
AND STATEMENT OF ALLEGATIONS**

You are hereby notified that a Formal Hearing has been scheduled before the Board of Nursing ("Board") regarding your application for reinstatement of your license to practice professional nursing in the Commonwealth of Virginia following its mandatory suspension by the Department of Health Professions.

TYPE OF PROCEEDING:	This is a formal administrative hearing before a panel of the Board.
DATE AND TIME:	September 21, 2017 1:00 P.M.
PLACE:	Virginia Department of Health Professions Perimeter Center - 9960 Mayland Drive 2 nd Floor - Virginia Conference Center Henrico, Virginia 23233

LEGAL AUTHORITY AND JURISDICTION:

1. This formal hearing is being held pursuant to Virginia Code §§ 2.2-4020, 2.2-4024(F), and 54.1-2400(11). This proceeding will be convened as a public meeting pursuant to Virginia Code § 2.2-3700.
2. The burden rests on you, as the applicant, to demonstrate that you are prepared to resume the safe and competent practice of professional nursing.
3. In considering your application, the Board will consider evidence that grounds exist to refuse to reinstate your license to practice professional nursing, as more fully set out in the enclosed Statement of Allegations.
4. At the conclusion of the proceeding, the Board is authorized to take any of the following actions:
 - Approve your application and issue an unrestricted license to practice professional nursing;
 - Approve your application and issue a reprimand, a monetary penalty, and/or a restricted license subject to terms and conditions;

- Deny your application and continue your license on indefinite suspension or revoke your license.

ABSENCE OF APPLICANT AND APPLICANT'S COUNSEL:

If you fail to appear at the formal hearing, the Board may proceed to hear this matter in your absence and may take any of the actions outlined above.

APPLICANT'S LEGAL RIGHTS:

You have the right to the information on which the Board will rely in making its decision, to be represented by counsel at this proceeding, to subpoena witnesses and/or documents, and to present relevant evidence on your behalf.

COMMONWEALTH'S EXHIBITS:

Enclosed is a copy of the documents that will be distributed to the members of the Board and will be considered by the Board 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 formal hearing.**

FILING DEADLINES:

1. Deadline for filing exhibits: **September 11, 2017**. Submit 15 copies of all documents you want the Board 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.

The Commonwealth must file any objections to your submissions in writing, addressed to Darlene Graham at the Board office, no later than **September 13, 2017**. If no objections have been received by **September 13, 2017**, the evidence will be distributed to the Board members for their review, and will be considered by the Board as evidence when it deliberates upon your case. If the Commonwealth raises objections, you have until **September 15, 2017**, to file your response to the objections, in writing and addressed to Darlene Graham at the Board office. The Chair of the proceeding will rule on the motion.

2. Deadline for filing motions: **September 11, 2017**, addressed to Darlene Graham at the above address.

3. Deadline for filing any objections to the Commonwealth's exhibits, in writing, to Darlene Graham at the above address: **September 11, 2017**. If you do not file objections by this date, the exhibits will be distributed to the Board members for their review prior to your hearing, and will be considered by the Board as evidence when it deliberates on your case. If you do file objections, the Commonwealth has until **September 13, 2017** to file a response to the objections, in writing, and addressed to Darlene Graham at the Board office. The Chair of the proceeding will rule on the motion.

NOTE: failure to object to the distribution of the Commonwealth's exhibits prior to the proceeding will not affect your right to contest any information contained in those exhibits at the proceeding.

REQUEST FOR A CONTINUANCE:

Absent exigent circumstances, such as personal or family illness, a request for a continuance after **September 11, 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 **September 11, 2017**.

OTHER IMPORTANT INFORMATION:

Pursuant to Virginia Code § 54.1-2409(D), reinstatement of your license requires the affirmative vote of three-fourths of the members of the Board in attendance at the hearing.

STATEMENT OF ALLEGATIONS

The Board alleges that grounds exist to refuse to reinstate the license of Jessica Lynn Yao, R.N. to practice professional nursing in that:

1. Ms. Yao violated Virginia Code § 54.1-3007(7) in that on or about October 12, 2016, Ms. Yao signed a Consent Order with the New York State Board of Nursing, which suspended her license to practice professional nursing in the State of New York for a period of two years.

2. Ms. Yao violated Virginia Code § 54.1-3007(4) in that on or about March 24, 2015, in Monroe County Court, Rochester, New York, she was convicted of driving while intoxicated, a felony.

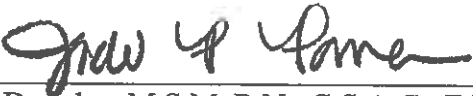
3. Ms. Yao violated Virginia Code § 54.1-3007(6) in that she is unsafe to practice professional nursing due to substance abuse, as evidenced by the following:

a. On two occasions, on or about August 17, 2010 and on or about March 24, 2015, Ms. Yao was convicted of driving while intoxicated, in the Monroe County Court, Rochester, New York.

b. During an interview with an investigator from the Department of Health Professions, Ms. Yao indicated that she first began abusing alcohol after graduating from college.

c. Ms. Yao stated that she has been to treatment on three occasions for alcohol abuse. Ms. Yao was diagnosed by her treatment provider at Westfall Associates, Rochester, New York, with alcohol dependence on or about December 13, 2012, and with alcohol use disorder, severe, on or about June 24, 2014.

d. Although Ms. Yao successfully completed a 26-week alcohol treatment program at White Spruce Counseling, Rochester, New York, on December 28, 2015, she indicated that she does not attend AA, does not have a sponsor, and does not do the 12 Step program.

for 

Jay Douglas, M.S.M, R.N., C.S.A.C., F.R.E.
Executive Director
Virginia Board of Nursing

August 29, 2017
Date _____