

**BEFORE THE VIRGINIA BOARD OF NURSING**

**IN RE:           AMY SUE SWAN BERG, L.P.N.**  
**License Number:   0002-070797**  
**Expiration Date:   February 28, 2017**  
**Case Number:       172792**

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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>	December 1, 2016 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: November 23, 2016. Submit five 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: November 23, 2016. 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 **November 23, 2016**, 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 **November 23, 2016**.

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STATEMENT OF ALLEGATIONS

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The Board alleges that:

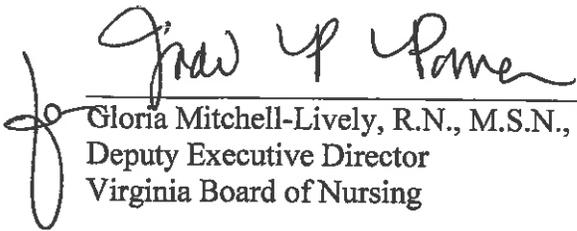
1. At all times relevant hereto, Amy Sue Swan Berg, L.P.N., was licensed to practice practical nursing in the Commonwealth of Virginia.

2. During the course of her employment with Friendship Health and Rehabilitation Center, Roanoke, Virginia:

a. Ms. Berg violated Virginia Code § 54.1-3007(5) and (6) in that on or about January 27, 2016, she was impaired while on duty, including smelling of alcohol, and was observed to be crying in the presence of residents, unable to focus and unable to provide care to her assigned residents.

b. Ms. Berg violated Virginia Code § 54.1-3007(2), (5), (6), and (8) and 18 VAC 90-20-300(A)(2)(c), (e) and (f) in that on or about January 28, 2016, she diverted a fentanyl patch (C-II) for personal and unauthorized use, which she accomplished by documenting the administration of the patch and placing only the cover of the patch on the resident's skin.

3. Ms. Berg violated Virginia Code § 54.1-3007(6) in that she is unsafe to practice practical nursing due to her admitted substance abuse. On May 9, 2016, during an interview with an investigator from the Department of Health Professions, Ms. Berg admitted to consuming approximately five shots of tequila every evening, showing up to work hungover, and being an alcoholic.

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

November 2, 2016  
Date