



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

October 1, 2009

Conchita S. Mitchiner, L.P.N.
2313 Sara Lane
Richmond, VA 23224

CERTIFIED MAIL
71603901984801629312

RE: VA License No.: 0002-042938
Expiration Date: August 31, 2010

Dear Ms. Mitchiner:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **November 3, 2009, at 9:00 a.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, during the course of your employment with the Masonic Home of Virginia, Richmond, Virginia:

1. You may have violated § 54.1-3007(5) of the Code in that you documented administering hydrocodone, a Schedule III controlled substance, more frequently than prescribed, to wit:

a. Resident A was ordered one-half hydrocodone tablet three times a day. On December 8, 2008, the resident received doses at 6:00 a.m., and 1:00 p.m. You administered two more doses at 4:30 p.m., and 10:00 p.m. On January 21, 2009, the resident received doses at 6:00 a.m., and 1:30 p.m. You administered two more doses at 4:00 p.m., and 9:00 p.m.

b. Resident B was ordered one hydrocodone tablet every six hours as needed for pain. On January 26, 2009, you administered a tablet at 3:45 p.m., and 9:15 p.m. On March 20, 2009, you administered a tablet at 4:00 p.m. and 9:00 p.m.

c. Resident C was ordered one hydrocodone tablet every four hours as needed for pain. On January 29, 2009, a dose was administered at 1:50 p.m. You administered the next dose at 5:30 p.m.

d. Resident D was ordered one-half hydrocodone tablet every six hours as needed for pain. On February 25, 2009, you administered a dose at 4:00 p.m., and 9:00 p.m. On March 4, 2009, you administered a dose at 3:30 p.m., and 8:30 p.m.

e. Resident E was ordered one-half hydrocodone tablet every four hours while awake. On April 3, 2009, a dose was administered at 12:50 p.m. You administered the next dose at 4:00 p.m. On April 6, 2009, a dose was administered at 1:00 p.m. You administered the next dose at 4:00 p.m.

f. Resident F was ordered one-half hydrocodone tablet every four hours as needed for pain. On April 8, 2009, the resident received a dose at 1:30 p.m. You administered the next dose at 5:00 p.m.

2. You may have violated § 54.1-3007(2) of the Code and 18 VAC 90-20-300(A)(2)(e) of the Regulations Governing the Practice of Nursing in that on the application for employment dated October 27, 2008, you indicated that you were currently employed at HCR Manor Care Imperial, when, in fact, your employment was terminated on or about October 15, 2008.

Please see Attachment A for the name of the residents referenced above.

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.

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 October 27, 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 November 3, 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 October 27, 2009. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after October 27, 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.

Sincerely,



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

Enclosures

cc: Sandra Whitley Ryals, Director, Department of Health Professions
Anne Joseph, Deputy Director, Administrative Proceedings Division
Tammie D. Jones, Adjudication Specialist
Martha Miller, Senior Investigator (125493)
Agency Subordinate

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

CONCHITA S. MITCHINER, L.P.N.

ORDER

In accordance with §§ 2.2-4019, 2.2-4021 and 54.1-2400(7)/(10) of the Code of Virginia (1950), as amended ("Code"), an informal conference was conducted on behalf of the Board of Nursing ("Board") on November 3, 2009, in Henrico County, Virginia. Conchita S. Mitchiner, L.P.N., was present and was not represented by legal counsel. Janet B. Younger, R.N., P.N.P., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On January 27, 2010, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Mitchiner was not present nor represented by legal counsel. Based upon its review of the Recommended Decision of the Agency Subordinate, the Board makes the following Findings of Fact and Conclusions of Law and issues the following Order.

FINDINGS OF FACT

1. Conchita S. Mitchiner, L.P.N., was issued License No. 0002-042938 to practice practical nursing in Virginia on May 23, 1990. The license will expire August 31, 2010.
2. On May 11, 2009, the Board entered an Order reprimanding Ms. Mitchiner and requesting she pay monetary penalty for over medicating a patient with Percocet, by administering 12 tablets in an eight hour period without physician orders, and practicing on an expired license.
3. By letter dated October 1, 2009, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Mitchiner notifying her that an informal conference would be held on November 3, 2009. The Notice was sent by certified and first class mail to 2313 Sara Lane, Richmond,

Virginia 23224, the address of record on file with the Board of Nursing.

4. During the course of her employment with the Masonic Home of Virginia, Richmond, Virginia, Ms. Mitchiner documented administering hydrocodone, a Schedule III controlled substance, more frequently than prescribed, to wit:

a. Resident A was ordered one-half hydrocodone tablet three times a day. On December 8, 2008, the resident received doses at 6:00 a.m., and 1:00 p.m. Ms. Mitchiner administered two more doses at 4:30 p.m., and 10:00 p.m. On January 21, 2009, the resident received doses at 6:00 a.m., and 1:30 p.m. Ms. Mitchiner administered two more doses at 4:00 p.m., and 9:00 p.m.

b. Resident B was ordered one hydrocodone tablet every six hours as needed for pain. On January 26, 2009, Ms. Mitchiner administered a tablet at 3:45 p.m., and 9:15 p.m. On March 20, 2009, Ms. Mitchiner administered a tablet at 4:00 p.m. and 9:00 p.m.

c. Resident C was ordered one hydrocodone tablet every four hours as needed for pain. On January 29, 2009, a dose was administered at 1:50 p.m. Ms. Mitchiner administered the next dose at 5:30 p.m.

d. Resident D was ordered one-half hydrocodone tablet every six hours as needed for pain. On February 25, 2009, Ms. Mitchiner administered a dose at 4:00 p.m., and 9:00 p.m. On March 4, 2009, Ms. Mitchiner administered a dose at 3:30 p.m., and 8:30 p.m.

e. Resident E was ordered one-half hydrocodone tablet every four hours while awake. On April 3, 2009, a dose was administered at 12:50 p.m. Ms. Mitchiner administered the next dose at 4:00 p.m. On April 6, 2009, a dose was administered at 1:00 p.m. Ms. Mitchiner administered the next dose at 4:00 p.m.

f. Resident F was ordered one-half hydrocodone tablet every four hours as needed for pain. On April 8, 2009, the resident received a dose at 1:30 p.m. Ms. Mitchiner administered the

next dose at 5:00 p.m.

5. On the application for employment with the Masonic Home of Virginia dated October 27, 2008, Ms. Mitchiner indicated that she was currently employed at HCR Manor Care Imperial, when, in fact, her employment was terminated on October 15, 2008.

6. Ms. Mitchiner reported that she gave pain medications as needed and assumed that she had latitude in the administration time, especially with PRN narcotics. She stated that she did not know the medication administration policy of the facility, with respect to how much variation in time was allowed. Ms. Mitchiner was employed with the Masonic Home of Virginia for five months. Her employment was terminated on April 29, 2009, for falsifying her employment application. She has been employed at Lucy Corr Village since June 1, 2009. She works the 3-11 shift and there is a professional nurse on site. Ms. Mitchiner was very forthcoming during the informal conference. She stated that she is willing to submit to drug screens at any time and, in fact, would appreciate the opportunity to prove that she is not on drugs.

CONCLUSIONS OF LAW

1. Finding of Fact No. 4 constitutes a violation of § 54.1-3007(5) of the Code.
2. Finding of Fact No. 5 constitutes a violation of § 54.1-3007(2) of the Code and 18 VAC 90-20-300(A)(2)(e) of the Regulations Governing the Practice of Nursing.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. Conchita S. Mitchiner, L.P.N., shall be placed on PROBATION for 12 months of actual nursing practice, subject to the following terms and conditions:
 - a. The period of probation shall begin on the date that this Order is entered and shall end at such time as Ms. Mitchiner has completed 12 months of active employment as a licensed practical

nurse. The license of Conchita S. Mitchiner, L.P.N., shall be reinstated without restriction at the completion of the probationary period without a hearing unless there is a pending investigation or unresolved allegation involving a violation of law, regulation or any term or condition of probation. In that event, the period of probation shall be continued indefinitely or until such time as the Board makes a case decision in accordance with the Administrative Process Act, § 2.2-4000 et seq. and § 54.1-2400.9 et seq. of the Code.

b. Ms. Mitchiner shall inform the Board in writing within ten (10) days of the date she begins nursing practice, or changes employment, or if any interruption in nursing practice occurs. Additionally, Ms. Mitchiner shall provide the name and address of each employer to the Board.

c. Ms. Mitchiner shall inform her current nursing employer and each future nursing employer that the Board has placed her on probation and shall provide each employer with a complete copy of this Order. If Ms. Mitchiner is employed through a staffing agency, she shall inform her supervisor in each facility where assigned that she is on probation.

d. Performance Evaluations shall be provided, at the direction of Ms. Mitchiner, by all nursing employer(s), as provided by the Compliance Division. The first report must be received in the Board office no later than sixty (60) days from the date this Order is entered. Subsequent reports must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends. Ms. Mitchiner shall also advise her immediate supervisor to review with her, the general and facility medication administration policy and provide a report of completion within 60 days of the entry of this Order.

e. Ms. Mitchiner shall provide the Board with verification that she has completed the following National Council of State Boards of Nursing ("NCSBN") courses within 45 days of the entry of this Order: Medication Errors: Detection and Prevention and Documentation: A Critical

Aspect of Client Care.

f. Ms. Mitchiner shall be required to have one supervised, unannounced random drug screen a month, from a Board approved testing entity, which includes testing for alcohol, opiates and benzodiazepines. Ms. Mitchiner shall ensure that the first set of results are received by the Board no later than sixty (60) days from the date this Order is entered. Subsequent results must be received quarterly by the last day of the months of March, June, September and December, until January, 2011. The Board shall be notified immediately in writing of any positive results or if Ms. Mitchiner refuses to give a specimen for analysis as required by this Order. All positive results must be confirmed by a confirmatory drug test, the results of which are to be sent to the Board immediately.

g. Ms. Mitchiner shall submit quarterly "Self-Reports" which include a current address, telephone number, and verification of all current employment. These reports shall also include any changes in employment status. The first report must be received in the Board office no later than sixty (60) days from the date this Order is entered. Subsequent reports must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends.

h. Ms. Mitchiner shall return all copies of her license to practice as licensed practical nurse, to the Board office within ten (10) days of the date of entry of this Order, along with a payment of a fee of \$5.00. Upon receipt, the Board shall issue a new license marked "Valid in Virginia Only; Probation with Terms."

i. Ms. Mitchiner shall practice consistent with laws and regulations governing nursing practice.

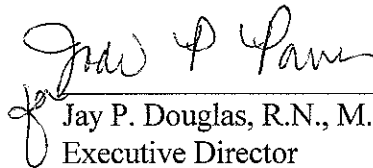
2. Any violation of the terms and conditions stated in this Order shall be reason for revoking the license of Conchita S. Mitchiner, L.P.N., and an administrative proceeding shall be held to decide whether her license should be revoked.

3. Ms. Mitchiner shall maintain a course of conduct in her capacity as a practical nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

This Order is subject to appeal to the Board. If Ms. Mitchiner desires a formal administrative hearing before the Board pursuant to §§ 2.2-4020 and 2.2-4021 of the Code, she must notify Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing, within thirty-three (33) days from the date of service of this Order. Upon the filing of a request for the hearing with the Executive Director, this Order shall be vacated.

Pursuant to § 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD



Jay P. Douglas, R.N., M.S.M., C.S.A.C.
Executive Director
Board of Nursing

Entered: February 10, 2010