

**BEFORE THE VIRGINIA BOARD OF NURSING**

**IN RE: Kelly Presley Vargas, R.N.**  
**License Number: 0001-248732**  
**Expiration Date: January 31, 2017**  
**Case Number: 162525**

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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 as a professional nurse in the Commonwealth of Virginia.**

<b>TYPE OF PROCEEDING:</b>	This is an informal conference before an Agency Subordinate of the Board of Nursing.
<b>DATE AND TIME:</b>	June 23, 2016 at 10:30 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.

**DEFAULT:**

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.

**COMMONWEALTH'S EXHIBIT:**

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 exhibits: June 16, 2016.** 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 exhibits, in writing, to Sylvia Tamayo-Suijk at the above address: June 16, 2016.** NOTE: the failure to object to exhibits does not deprive you of the right to contest their contents at the proceeding.

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## STATEMENT OF ALLEGATIONS


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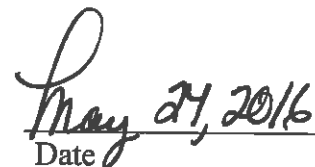
The Board of Nursing alleges that:

1. At all times relevant hereto, Kelly Presley Vargas, R.N. was licensed to practice professional nursing in the Commonwealth of Virginia.
2. Kelly Presley Vargas, R.N. violated Virginia Code § 54.1-3007(2), (5), and (8) and 18 VAC 90-20-300(A)(2)(c) of the Regulations Governing the Practice of Nursing (“Regulations”) in that during the course of her employment as a travel nurse with AMN Healthcare, while assigned to High Point Regional Health System, High Point, North Carolina, (“HPRHS”), on or about February 15, 2015, she diverted medication for her personal and unauthorized use by withdrawing one 20mg tablet of oxycodone (C-II) and one 4mg syringe of morphine sulfate (C-II) from the Accudose Medication Dispensing System (“Accudose”). In addition, Ms. Vargas failed to account for the administration of the medications in accordance with physician’s orders or failed to account for their return or wastage.
3. Kelly Vargas, R.N. violated Virginia Code § 54.1-3007(5) and (6) in that on or about February 15, 2015, she was observed to have red eyes with pinpoint pupils, slow speech, and erratic movements during her shift. HPRHS conducted a reasonable cause drug screen which was positive for oxycodone, oxymorphone and hydromorphone. By her own admission, Ms. Vargas did not have valid prescriptions for any of the drugs that appeared in her screen.
4. Kelly Vargas, R.N. violated Virginia Code § 54.1-3007(5) and (6) in that she is unable to practice as a professional nurse due to substance abuse, as evidenced by her execution of a Participation Contract with the Health Practitioners’ Monitoring Program (“HPMP”) on October 20, 2015, in which she acknowledged that her opioid abuse impairs her ability to safely practice. As of

January 18, 2015, Ms. Vargas was non-compliant with the terms of the HPMP and has been placed on warning status.

5. Kelly Vargas, R.N. violated Virginia Code § 54.1-3007(2) and (5) and 18 VAC 90-20-300(A)(2)(e) of the Regulations in that on her January 13, 2015 application for employment with AMN Healthcare, she falsely stated that the reason she was leaving her employment with Mary Washington Healthcare (“MWH”) was that she wanted “to travel.” In fact, Ms. Vargas’ employment with MWH was terminated.

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

  
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Date