



COMMONWEALTH of VIRGINIA

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Director

Department of Health Professions

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Virginia Board of Nursing
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May 18, 2016

Malkia Malaika Gaines, R.M.A.
7000 Coachman Lane, Apt 203
Richmond, VA 23228

Certified Article Number

9414 7266 9904 2028 4774 56

SENDERS RECORD

RE: Case Number 170954, 169136

Dear Ms. Gaines:

Attached is an Amended Notice of Informal Conference and Statement of Allegations.

For information regarding this type of proceeding, including Frequently Asked Questions regarding Disciplinary Proceedings, directions to the Department of Health Professions Conference Center, instructions for requesting subpoenas, the Board's Sanctioning Reference Points, the text of the Administrative Process Act and other statutes and regulations cited herein, and other related information, please see www.dhp.virginia.gov/nursing/nursing_hearings.htm. If you do not have Internet access, you may request a hard copy of any of this information by calling Francine Battle at (804) 367-4521.

If you have any questions, you may contact Brenda Krohn, R.N., M.S., Deputy Executive Director at (804) 367-4614 or nursebd@dhp.virginia.gov.

Please notify the Board office of your intent to attend this proceeding.

Sincerely,

Brenda Krohn, R.N., M.S.
Deputy Executive Director
Virginia Board of Nursing

BK/fdb
Enclosure

cc: David W. Kazzie, Adjudication Specialist, Administrative Proceedings Division
Anne G. Joseph, Deputy Director, Administrative Proceedings Division
Debra Hay-Pierce, Senior Investigator, Division of Enforcement
Agency Subordinate

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: Malkia Malaika Gaines, R.M.A.
License Number: 0031-005453
Expiration Date: August 31, 2016
Case Number: 170954, 169136

**AMENDED NOTICE OF INFORMAL CONFERENCE
BEFORE AN AGENCY SUBORDINATE
AND STATEMENT OF ALLEGATIONS**

You are hereby notified that an informal conference has been scheduled before an Agency Subordinate of the Board of Nursing (“Board”) regarding your registration to practice as a medication aide in the Commonwealth of Virginia.

TYPE OF PROCEEDING:	This is an informal conference before an Agency Subordinate of the Board of Nursing.
DATE AND TIME:	June 16, 2016 at 10:30 a.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 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 as a medication aide 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 registration, 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 9, 2016. Submit 5 copies of all documents you want the Board to consider to Brenda Krohn, R.N., M.S., 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 Brenda Krohn, R.N., M.S., at the above address: June 9, 2016. NOTE: the failure to object to exhibits does not deprive you of the right to contest their contents at the proceeding.

STATEMENT OF ALLEGATIONS


The Board of Nursing alleges that:

1. At all times relevant hereto, Malkia Malaika Gaines, R.M.A. was registered to practice as a medication aide in the Commonwealth of Virginia.
2. Ms. Gaines violated Virginia Code § 54.1-3007(2), (5), (6), and (8) and 18 VAC 90-60-120(2)(c) of the Regulations Governing the Registration of Medication Aides (“Regulations”) in that during the course of her employment with Symphony Manor of Richmond, Richmond, Virginia, on or about August 4, 2015, she diverted a blister pack containing approximately 22 tablets of oxycodone (C-II) for her personal and unauthorized use.
3. Ms. Gaines violated Virginia Code § 54.1-3007(2), (5), (6), and (8) and 18 VAC 90-60-120(2)(c) of the Regulations in that during the course of her employment with Brookdale Senior Living, on or about July 15, 2015, she diverted approximately two oxycodone tablets and a blister pack containing thirty oxycodone tablets for her personal and unauthorized use. She accomplished this diversion by removing the tablets from the medication cart to which only she was assigned that day.
4. Ms. Gaines violated Virginia Code § 54.1-3007(2), (5) and (8), 18 VAC 90-60-120(2)(f), (l), and (m) and 18 VAC 90-60-110(A)(2) of the Regulations in that during the course of her employment with Heritage Green, Richmond, Virginia, between about August 2014 and October 2014, she withdrew multiple narcotic medications and failed to document their administration on residents’ medication administration records.
5. Ms. Gaines violated Virginia Code § 54.1-3007(2) and 18 VAC 90-60-120(2)(d) of the Regulations in that on her February 23, 2015, application for employment with Brookdale Senior Living, Richmond, Virginia, she falsely stated that she had resigned her employment with Heritage Green when, in fact, her employment had been terminated.

6. Ms. Gaines violated Virginia Code § 54.1-3007(4) in that on or about May 13, 2004, she was convicted in the Henrico County General District Court of petit larceny, a misdemeanor involving moral turpitude.

7. Ms. Gaines violated Virginia Code § 54.1-3007(2), (5), (6), and (8) and 18 VAC 90-60-120(2)(c) of the Regulations in that during the course of her employment with Chestnut Grove Assisted Living Facility, Richmond, Virginia, on or about November 8, 2015, she diverted approximately thirty oxycodone tablets for her personal and unauthorized use, which she accomplished by not recording the delivery of the tablets from the pharmacy.

8. Ms. Gaines violated § 54.1-3007(2) and 18 VAC 90-25-100(2)(f) of the Regulations in that on her October 19, 2015, application for employment with Chestnut Grove Assisted Living Facility, Ms. Gaines failed to disclose her previous employments with Symphony Manor and Brookdale Senior Living or that they had been terminated.


Brenda Krohn, R.N., M.S.
Deputy Executive Director
Virginia Board of Nursing

May 18, 2016
Date