



COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

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Virginia Board of Nursing
Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director

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NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

October 5, 2015

Kyndal Butler, C.N.A.
4029 Old Buckingham Road
Powhatan, Virginia 23139

CERTIFIED MAIL
9414726699042028434961

RE: VA Certificate No.: 1401-170849
Expiration Date: December 31, 2016

Dear Ms. Butler:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **October 29, 2015, at 9:00 a.m.**, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Henrico, 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 nurse aide practice in Virginia.

Specifically:

1. You may have violated § 54.1-3007(6) of the Code in that you may be unable to safely practice as a certified nurse aide due to substance abuse and/ or mental illness, as evidenced by the following:
 - a. On or about April 13, 2015, you were hospitalized at VCU Health System, Richmond, Virginia, following a suicide attempt. You were diagnosed with depressive disorder, NOS, anxiety disorder, opioid disorder, alcohol disorder, and cannabis use disorder in remission.
 - b. On or about April 17, 2015, upon discharge from VCU Health System, you were admitted to the American Addiction Center, Las Vegas, Nevada. By your own admission, you left the facility without permission with three other patients and relapsed by using methamphetamine. You were discharged from the facility and sent to a facility in California. You left the facility in California after four days.

c. On Or about January 15, 2015, your primary care provider diagnosed you with opioid withdrawal and tremors of the nervous system.

2. You may have violated § 54.1-3007(4) of the Code in that on or about August 10, 2015, you were convicted of misdemeanor shoplifting in the Powhatan County, Virginia, General District Court.

3. You may have violated § 54.1-3007(1) of the Code and 18 VAC 90-25-100(1)(b) of the Regulations Governing Certified Nurse Aides in that on your application for certification by examination received by the Board on November 17, 2014, you answered “NO” to the question “Do you have a mental physical or chemical dependency which could interfere with your current ability to practice as a nurse aide?” when, in fact, by your own admission, you have been using drugs since the age of 15.

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 as a nurse aide in the Commonwealth; or
- 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 certificate, 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.

Since the allegations listed above involve impairment, please be advised that you may make application to the Health Practitioners’ Monitoring Program (“HPMP”), which is available to all health care practitioners licensed in Virginia. Information about the HPMP is enclosed. Should you enter into a written agreement with the HPMP prior to your informal conference, the agency subordinate will take that into consideration when making a recommendation in your case.

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.**

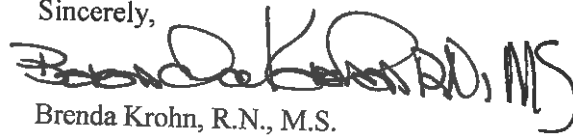
To facilitate this proceeding, you should submit five copies of any documents you wish the agency subordinate to consider to the Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, by October 22, 2015. Your documents may not be submitted by facsimile or email.

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 October 29, 2015. 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 22, 2015. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after October 22, 2015, 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) 367-4614.

Sincerely,



Brenda Krohn, R.N., M.S.
Deputy Executive Director

BK/fdb
Enclosures

cc: Anne G. Joseph, Deputy Director, Administrative Proceedings Division
Cynthia E. Gaines, Adjudication Specialist
Ashley Moran, MS, Senior Investigator (Case No. 163055)
Agency Subordinate