



COMMONWEALTH of VIRGINIA

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Director

Department of Health Professions

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Virginia Board of Nursing
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NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

July 20, 2015

Virginia K. Mitchell, L.P.N.
126 Painter Street
Tazewell, VA 24651

CERTIFIED MAIL
9414 7266 9904 2003 1963 65

RE: VA License No.: 0002-074980
Expiration Date: December 31, 2016

Dear Ms. Mitchell:

This letter is official notification that an informal conference of the Virginia Board of Nursing (“Board”) will be held on **August 20, 2015, at 10:30 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 practical nursing practice in Virginia.

Specifically:

1. During the course of your employment with Kissito Healthcare Bland County, Bastian, Virginia (“Kissito Healthcare”), on or about November 28, 2014:

a. You may have violated § 54.1-3007(2), (5), (6), and (8) of the Code and 18 VAC 90-20-300(A)(2)(c), (e), and (k) of the Regulations Governing the Practice of Nursing (“Regulations”) in that you diverted a 30-tablet card of Norco (hydrocodone/acetaminophen 10/325 mg, C-II) belonging to Resident A and removed the corresponding narcotic count sheet.

b. You may have violated § 54.1-3007(5) and (6) of the Code in that on a for-cause urine drug screen, you tested positive for marijuana and for hydrocodone, for which you did not have a

current prescription. You admitted to ingesting hydrocodone that morning and marijuana a few weeks prior.

2. You may have violated § 54.1-3007(2), (5), (6), and (8) of the Code and 18 VAC 90-20-300(A)(2)(c), (e), and (k) of the Regulations Governing the Practice of Nursing (“Regulations”) in that, during the course of your employment with Heritage Hall Tazewell, on or about April 17, 2015, you diverted 18 tablets of Percocet (hydrocodone/ acetaminophen 10/325 mg, C-II) belonging to Resident B and removed the corresponding count pages from the narcotic book.

3. You may have violated § 54.1-3007(2) of the Code and 18 VAC 90-20-300(A)(2)(e) of the Regulations in that:

a. On your application for employment with Kissito Healthcare dated February 7, 2014:

i. You wrote that you were still employed at Pheasant Ridge Nursing and Rehabilitation, Roanoke, Virginia (“Pheasant Ridge”), when in fact, your employment with Pheasant Ridge had been terminated on or about November 20, 2013 for violating company policy.

ii. You wrote “better job” as your reason for leaving Salem Healthcare and Rehabilitation, Salem, Virginia (“Salem Healthcare”), when in fact, your employment with Salem Healthcare was terminated on or about July 11, 2011 for suspected drug diversion.

iii. You wrote “better job” as your reason for leaving Avante at Roanoke, Roanoke, Virginia, when in fact, your employment was terminated in or about 2007 for a “no call, no show.”

b. On your application for Heritage Hall Tazewell, Tazewell, Virginia dated January 13, 2015:

i. You wrote “not enough hours” as your reason for leaving Kissito Healthcare, when, in fact, your employment was terminated on or about November 28, 2014 as a result of your failed urine drug screen.

ii. You wrote “moved back to Tazewell” as your reason for leaving Pheasant Ridge, when in fact, your employment with Pheasant Ridge had been terminated on or about November 20, 2013 for violating company policy.

iii. You wrote “conflict of interest” as your reason for leaving Salem Healthcare, when in fact, your employment with Salem Healthcare was terminated on or about July 11, 2011 for suspected drug diversion.

iv. You wrote “conflict of interest” as your reason for leaving Avante at Roanoke, when in fact, your employment with Avante at Roanoke was terminated in or about 2007 for a “no call, no show.”

4. You may have violated § 54.1-3007(6) of the Code in that between 2011 and 2013 you participated in the 23rd Judicial Circuit Drug Court program in Salem, Virginia, which included random urine drug screens and substance abuse counseling, as part of a deferred disposition of six felony counts of obtaining or attempting to obtain drugs by fraud or deceit.

Please see Attachment I 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 practical nursing 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 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.

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 August 14, 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 August 20, 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 August 14, 2015. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after August 14, 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 our office, at (804) 367-4502.

Sincerely,



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

GML/sts
Enclosures

cc: Anne G. Joseph, Deputy Director, Administrative Proceedings Division
Amy E. Weiss, Adjudication Specialist
James Wall, Senior Investigator (Case nos. 163192 and 160787)
Agency Subordinate
Peggy Wood, Monitoring Program Manager