



# COMMONWEALTH of VIRGINIA

David E. Brown, D.C.  
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

May 12, 2015

Michael P. Persch, R.N.  
3314 Circle Brook Drive, Apt. H  
Roanoke, Virginia 24018

**CERTIFIED MAIL**  
**9414726699042003246244**

RE: VA License No.: 0001-246822  
Expiration Date: March 31, 2016

Dear Mr. Persch:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **June 1, 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 nursing practice in Virginia.

Specifically:

1. You may have violated § 54.1-3007(6) of the Code in that you may be unsafe to practice professional nursing based on the following:
  - a. Your admitted history of mental illness and substance abuse.
  - b. On or about May 22, 2014, you were discharged from Mount Regis Center, Salem, Virginia, with diagnoses of alcohol dependence, opioid dependence, and adjustment disorder with mixed features.
  - c. On or about April 8, 2014, during the course of your employment with Carilion Roanoke Memorial Hospital, Roanoke, Virginia, you submitted to a reasonable cause urine drug screen that was positive for norfentanyl (identified as a major metabolite of fentanyl) and oxycodone, for which you did not have valid prescriptions.

d. On or about August 9, 2012, you were convicted of misdemeanor DUI – Liquor and Drugs -1<sup>st</sup> Offense in the Justice Court, Las Vegas Township of Clark County, Nevada.

e. By a judgment signed on or about June 24, 2003, you were convicted of driving while intoxicated, a misdemeanor, in the United States District Court for the Eastern District of Virginia, Alexandria Division.

2. You may have violated § 54.1-3007(7) of the Code in that by letter from the Nevada State Board of Nursing dated January 21, 2014, your application for licensure to practice as a registered nurse in the State of Nevada, received on April 8, 2013, was denied based on “a violation of NRS 632.320 (1)(b) criminal convictions, and (1)(e) controlled substances and/or alcohol.”

3. You may have violated § 54.1-3007(1) of the Code and 18 VAC 90-20-300(A)(1)(b) of the Regulations Governing the Practice of Nursing (“Regulations”) in that on your Application for Licensure by Examination – Registered Nurse, dated July 3, 2013:

a. You responded “no” to the question “Have you ever applied for a license/registration/certificate or multi-state privilege as a health care provider in Virginia or any other state/jurisdiction” when, in fact, you applied for licensure to practice as a registered nurse in the State of Nevada as referenced above.

b. You responded “no” to the question “Have you ever been convicted, pled guilty to or pled Nolo Contendere to the violation of any federal, state or ordinance constituting a felony or misdemeanor? (including convictions for driving under the influence, but excluding traffic violations)?” when, in fact, you were convicted of misdemeanor DUI-Liquor and Drugs – 1<sup>st</sup> Offense and a misdemeanor offense of driving while intoxicated as referenced above.

4. 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 initial application for employment with Carilion Roanoke Memorial Hospital dated May 18, 2013, you failed to list your conviction for driving while intoxicated as referenced above.

b. On your application for employment with Carilion Roanoke Memorial Hospital dated August 22, 2014:

i. You failed to list your conviction for driving while intoxicated as referenced above.

ii. When asked if you had received disciplinary action, been placed on probation, or been investigated by any state licensing board(s), you failed to list the denial of your application for licensure in the State of Nevada as referenced above.

5. You may have violated § 54.1-3007(2), (3), (5), (6) and (8) of the Code and 18 VAC 90-20-300(A)(2)(c) and (e) of the Regulations in that during the course of your employment with Carilion Roanoke Memorial Hospital, you diverted narcotic medications for your own personal and unauthorized use as evidenced by a pharmacy audit covering the period January 1, 2014 to March 31, 2014, which revealed multiple discrepancies in your administration and documentation of narcotics. More specifically:

a. On or about March 16, 2014, at 2223 hours and 2345 hours, and on or about March 17, 2014, at 0316 hours, you removed a tablet of hydromorphone 4mg (C-II) from the Pyxis machine for Patient A, and documented in the Epic system that it was not given. There was no documentation of return or waste of this medication.

- b. On or about March 17, 2014, at 0100 hours, you documented administering morphine 2mg (C-II) to Patient B. You subsequently documented administering two tablets of oxycodone 5mg (C-II) to this same patient at 0107 hours.
- c. On or about March 19, 2014, at 0040 hours, you documented administering fentanyl 12.5mcg (C-II) to Patient C. You subsequently documented administering two tablets of oxycodone 5mg to this same patient at 0058 hours.
- d. On or about March 19, 2014, at 0551 hours, you documented administering two tablets of oxycodone 5mg to Patient C. You subsequently documented administering fentanyl 12.5mcg to this same patient at 0555 hours.
- e. On or about March 19, 2014, at 0225 hours, you removed a 2ml ampule of fentanyl 100mcg from the Pyxis machine for Patient C, but you did not document administration, return or waste of this medication.
- f. On or about March 19, 2014, at 0243 hours, you removed two tablets of oxycodone 5mg from the Pyxis machine for Patient C, but you did not document administration, return or waste of this medication.
- g. On or about February 27, 2014, at 2203 hours, you documented administering fentanyl 25mcg to Patient D. You subsequently documented administering two tablets of oxycodone 5mg to this same patient at 2209 hours.
- h. On or about March 18, 2014, at 2006 hours, 2012 hours, and 2134 hours, you removed a 1ml syringe of hydromorphone 1mg from the Pyxis machine for Patient E, but you did not document administration, return or waste of this medication.
- i. On or about March 18, 2014, at 2134 hours, you removed a belladonna/opium 60mg suppository from the Pyxis machine for Patient E, but you did not document administration, return or waste of this medication.
- j. On or about March 29, 2014, at 0525 hours, you removed a 100ml bag of fentanyl 2000mcg from the Pyxis machine for Patient F, but you did not document administration, return or waste of this medication.
- k. On or about February 21, 2014, at 0159 hours, you removed a 1ml carpject of morphine 2mg from the Pyxis machine for Patient G, but you did not document administration, return or waste of this medication.
- l. On or about March 19, 2014, at 1910 hours, you documented administering a tablet of oxycodone 5mg to Patient G. You subsequently documented administering morphine 2mg to this same patient at 1939 hours.
- m. On or about March 19, 2014, at 2154 hours, you documented administering a tablet to oxycodone 5mg to Patient G. You subsequently documented administering morphine 2mg to this same patient also at 2154 hours.
- n. On or about February 20, 2014, at 0009 hours, you documented administering a tablet of oxycodone 5mg to Patient G. You subsequently documented administering morphine 2mg to this same patient at 0035 hours.

o. On or about February 20, 2014, at 0334 hours, you documented administering morphine 2mg to Patient G. You subsequently documented administering a tablet of oxycodone 5mg to this same patient at 0345 hours.

p. On or about March 13, 2014, at 1947 hours, you documented administering fentanyl 25mcg to Patient H. You subsequently documented administering a tablet of oxycodone 5mg to this same patient at 2010 hours.

q. On or about March 13, 2014, at 2356 hours, you documented administering a tablet of oxycodone 5mg to Patient H. You subsequently documented administering fentanyl 25mcg to this same patient at 0000 hours.

Please see Attachment A for the names of the patients 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 May 25, 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 June 1, 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 May 25, 2015. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after May 25, 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) 367-4617.

Sincerely,



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

Enclosures

cc: Anne G. Joseph, Deputy Director, Administrative Proceedings Division  
Amanda E. M. Blount, Adjudication Specialist  
Agency Subordinate  
Peggy Wood, Monitoring Program Manager