



COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions

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Virginia Board of Nursing
Jay P. Douglas, MSM, RN, CSAC, FRE
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AMENDED NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

March 30, 2015

Alesha Plumley, L.P.N.
P.O. Box 993
Princeton, WV 24740

CERTIFIED MAIL
9414 7266 9904 2003 1981 16

67A Old Athens Road
Princeton, WV 24740

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RE: North Carolina License No.: 075418 with Multistate Privilege
Expiration Date: October 31, 2014

Dear Ms. Plumley:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **April 27, 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. You may have violated § 54.1-3007(2), (5), and (8) of the Code and 18 VAC 90-20-3000(A)(2)(c) of the Regulations Governing the Practice of Nursing ("Regulations") in that during the course of your employment with Skyline Nursing and Rehabilitation Center, Floyd, Virginia, in or about July and August 2014, you diverted narcotic medication for your personal and unauthorized use. You accomplished this diversion by documenting the withdrawal of medication on the facility's Narcotic Control Sheets and then failing to account for the administration of the medications in accordance with physicians' orders or account for the wastage or return, including:

- a. approximately 14 tablets of hydrocodone 5/325 (Schedule III) prescribed to Patient A;
- b. approximately 16 tablets of hydrocodone 7.5 mg (Schedule III) prescribed to Patient B;
- c. approximately two tablets of Temazepam (Schedule IV) prescribed to Patient C;
- d. an unknown quantity of oxycodone (Schedule II) tablets prescribed to Patient D.
- e. approximately 10 tablets of hydrocodone prescribed to Patient E.

2. You may have violated § 54.1-3007(2), (5), and (8) of the Code 18 VAC 90-20-300(A)(2)(c) and (e) of the Regulations in that during the course of your employment with Richfield Retirement Community, Salem, Virginia, in or about June 2014, you diverted approximately 30 tablets of hydrocodone (Schedule III) and approximately 30 tablets of oxycodone (Schedule III) for your personal and unauthorized use, and, by your own admission, you altered the narcotic count sheet.

3. During the course of your employment with Hermitage Hall, Rich Creek, Virginia, (formerly Riverview Nursing Home):

a. You may have violated §54.1-3007(5) and (6) of the Code in that on or about April 7, 2014, you were reported to have slurred speech, a dazed look in your eyes, and poor concentration, and you refused to submit to a urine drug screen when requested to do so by the facility.

b. You may have violated §54.1-3007(2), (5), and (6) of the Code and 18 VAC 90-20-300(A)(2)(c) of the Regulations in that between or about February 11, 2014 and March 1, 2014, you diverted narcotic pain medications from five residents and used the medication for your own unauthorized and/or personal use, as evidenced by the following:

i. Between or about February 11, 2014 and February 27, 2014, you documented pulling approximately 25 tablets of Percocet (oxycodone, Schedule II) on the Narcotic Record for Resident F. However, you failed to document the administration of approximately 20 of the 25 tablets on the resident's Medication Administration Record ("MAR").

ii. On or about March 3, 2014, and March 5, 2014, you documented pulling approximately eight tablets of Norco (hydrocodone-acetaminophen) on the Narcotic Record for Resident G; however, you only documented administering five tablets on the resident's MAR.

iii. Between or about February 28, 2014 and March 1, 2014, you documented pulling approximately five tablets of Percocet (oxycodone, Schedule II) for Resident H on the Narcotic Record; however, your count documented on the Narcotic Record was incorrect and you only documented administering two tablets on the resident's MAR.

iv. Between or about February 18, 2014 and March 4, 2014, you documented pulling approximately 15 tablets of Lortab (hydrocodone-acetaminophen 5/325 mg) on the Narcotic Record for Resident I; however, you only documented administering approximately ten tablets on the resident's MAR.

v. Between or about February 10, 2014 and February 26, 2014, you documented pulling approximately 33 tablets of Lortab 7.5/325 mg for Resident J on the Narcotic Record; however, you only documented administering approximately ten tablets on the resident's MAR.

vi. Between or about February 26, 2014 and February 28, 2014, you documented pulling approximately ten tablets of Norco 10/325mg on the Narcotic Record for Resident J; however, you only documented administering approximately five tablets on the resident's MAR.

4. You may be in violation of §54.1-3007(2) and (5) 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 Hermitage Hall, Rich Creek, Virginia, between or about February 12, 2014 and April 6, 2014; you signed the names and/or initials of fellow nurses to the Narcotic Book on multiple occasions without their authorization and when they were not working on the unit.

Please see Attachment A 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 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/certificate/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 § 2.2-4020 of the Code.

If the agency subordinate finds that there is sufficient evidence to find you in violation of the above charge(s) and § 54.1-3007(8) of the Code, the agency subordinate shall recommend that the Board make a finding of abuse, neglect, or misappropriation of patient property, which will be entered in the Virginia Nurse Aide Registry pursuant to 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D) of the Code of Federal Regulations. According to 42 CFR § 483.13(c)(1)(ii)(B), such a finding will prohibit your

future employment as a certified nurse aide in any long term care facility that receives Medicare or Medicaid reimbursement.

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 April 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 April 27, 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 April 22, 2015. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after April 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 our office, at (804) 367-4502 .

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
David W. Kazzie, Adjudication Specialist
Lisa Oliphant, Senior Investigator (Case Nos. 156675/15778/158569)
Agency Subordinate
Peggy Wood, Monitoring Program Manager