



# COMMONWEALTH of VIRGINIA

Dianne L. Reynolds-Cane, M.D.  
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

August 11, 2011

Daniel W. Chisolm, R.N.  
3101 Cottage Oaks Court  
Midlothian, VA 23112

**CERTIFIED MAIL**  
**71969008911101609484**

RE: License No. 0001-228459  
Expiration Date: June 30, 2012

Dear Mr. Chisolm:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **September 6, 2011, at 2:00 p.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 professional nursing practice in Virginia.

Specifically:

1. During the course of your employment with Chippenham Johnston Willis Medical Center, Chesterfield, Virginia, 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 Governing the Practice of Nursing in that on multiple occasions, you diverted narcotic medication for your personal and unauthorized use, as evidenced by the following:

a. On or about April 7, 2011, you diverted a Dilaudid syringe (hydromorphone – Schedule II), which you accomplished by withdrawing the medication for another nurse's patient, who did not have an

order for Dilaudid. You claimed that the medication was for your patient, but your patient did not have an order for Dilaudid.

b. Between March 22, 2011, and April 7, 2011, you withdrew 14 Dilaudid syringes for Patient A, who was not assigned to your care on 13 of the occasions that you withdrew the medication, and you did not document the administration, wastage or return of the medication.

c. On or about March 17-19, 2011, you withdrew 12 morphine syringes (Schedule II) and nine Percocet tablets (Schedule II) for Patient B, but you failed to document the administration, return or wastage of the medication.

d. On or about March 23, 2011, you withdrew one temazepam (Schedule IV), and on or about March 25, 2011, you withdrew one vial of propofol, both for Patient B, who was not assigned to your care, and you did not document the administration, wastage or return of the medication.

e. Between March 13, 2011, and April 1, 2011, you withdrew 13 morphine syringes for Patient C, who did not have an order for the medication, and you did not document the administration, wastage or return of the medication.

f. Between March 13, 2011, and April 1, 2011, you withdrew 12 Percocet tablets for Patient C, including two tablets on March 13 and 14, 2011, when Patient C was not assigned to your care. You did not document the administration, wastage or return of any of the medication.

g. On or about March 21, 2011, and March 22, 2011, you withdrew two propofol for Patient D, who was not assigned to your care, and you did not document the administration, wastage or return of the medication.

h. Between February 2, 2011, and February 8, 2011, you withdrew five morphine syringes and one dose of propofol for Patient E, and you did not document the administration, wastage or return of the medication.

2. You may be in violation of § 54.1-3007(6) of the Code in that you may be unable to safely practice professional nursing due to substance abuse, as evidenced by the extensive diversion of narcotic medication as noted in Allegation No. 1.

Please see Attachment A for the name 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.

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 September 1, 2011. 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 **September 6, 2011**. 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 September 1, 2011. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after September 1, 2011, 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 the office at (804) 367-4515.

Sincerely,

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

Enclosures

cc: Anne G. Joseph, Deputy Director, Administrative Proceedings Division  
James E. Rutkowski, Adjudication Specialist  
Ann Hardy, Senior Investigator (Case 138001)  
Agency Subordinate  
Peggy Wood, Monitoring Program Manager