



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
Executive Director

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NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

March 23, 2015

Stephen Burton, C.N.A.
11960 Highway 92
Chase City, Virginia 23924

CERTIFIED MAIL
9414726699042003195221

RE: VA Certificate No.: 1401-163073
Expiration Date: October 31, 2015

Dear Mr. Burton:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **April 21, 2015, at 1:00 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 nurse aide practice in Virginia.

Specifically, you may have violated § 54.1-3007(2), (5), and (8) of the Code and 18 VAC 90-25-100(2)(e) of the Regulations Governing Certified Nurse Aides in that between or about June 7, 2014, and June 10, 2014, during the course of your employment with the Laurels of University Park, Henrico, Virginia, you placed your hand in Resident A's vagina for no legitimate therapeutic purpose.

Please see Attachment I for the name of the resident referenced above.

The Board hereby offers to enter into the enclosed Consent Order with you in lieu of an informal conference in this matter. Please review this document, and should you consent to its terms, sign it in the presence of a notary public. In order for this Consent Order to become effective, you must return the entire document bearing your witnessed signature to the Board office on or before April 7, 2015. Upon its receipt in the Board office, the Consent Order will be entered upon approval by the full Board and the

informal conference will be cancelled. You will receive a certified copy of the Consent Order, bearing the date of entry, shortly thereafter. Should the Board not receive this signed Consent Order from you by 5:00 p.m. on April 7, 2015, the Board will proceed with the informal conference as scheduled.

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.

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.

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 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 April 21, 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 14, 2015. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after April 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 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
Jennifer Challis, Senior Investigator (Case No. 160130)
Agency Subordinate