



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

November 20, 2014

Linda Dillman, C.N.A., R.M.A.
Post Office Box 1088
Chilhowie, Virginia 24319

CERTIFIED MAIL
9414726699042003254775

RE: VA Certificate No.: 1401-057103
Expiration Date: January 31, 2014

RE: VA Registration No.: 0031-001303
Expiration Date: March 31, 2015

Dear Ms. Dillman:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **December 11, 2014, at 9:00 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 nurse aide and medication aide practice in Virginia.

Specifically, during the course of your employment with Hands of Grace Assisted Living Facility, Marion, Virginia:

1. You may have violated § 54.1-3007(2), (5), and (8) of the Code, 18 VAC 90-60-120(2)(d), (f), (l) and (m) and 18 VAC 90-60-110(A)(2) of the Regulations Governing the Registration of Medication Aides and 18 VAC 90-25-100(2)(d) and (e) of the Regulations Governing Certified Nurse Aides in that on or about June 11, 2014, and June 12, 2014, by your own admission, you documented in Resident A's Medication Administration Record that you had applied the topical medication ordered by her physician, when you had not actually done so.

2. You may have violated § 54.1-3007(2), (5) and (8) of the Code, 18 VAC 90-25-100(2)(e) of the Regulations Governing Certified Nurse Aides, and 18 VAC 90-60-120(2)(f) of the Regulations Governing the Registration of Medication Aides in that between on or about October 28, 2013, and November 5, 2013, you failed to seek medical assistance for Resident B when you were notified by direct care staff that Resident B was not feeling well. This resident suffered from chronic obstructive pulmonary disease, congestive heart failure, and was mildly cognitively impaired and mentally ill. He had shortness of breath and had requested the "rescue wagon."

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 as a nurse aide and/or medication 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 and/or 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.

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 December 4, 2014. 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 December 11, 2014. 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 December 4, 2014. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after December 4, 2014, 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.

In the event of inclement weather, please be advised that Board of Nursing hearings will be held unless state offices are closed. Please listen to television or radio announcements to provide information about official state closings or delays. If there is a delayed opening, hearings will begin at the time of the agency opening. A recorded announcement pertaining to closings or delays will also be available by calling the main telephone number for the Department of Health Professions at (804) 367-4400.

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
James Wall, B.S.N., R.N., Senior Investigator (Case Nos. 153835, 153836 and 157669)
Agency Subordinate