

0031-008788



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

Board of Nursing (804) 367-4515
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NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

December 22, 2014

Daphne McKinney, C.N.A., R.M.A. Applicant
996 North Loudon Street
Winchester, Virginia 22601

CERTIFIED MAIL
9414726699042003249627

RE: VA Certificate No.: 1401-061611
Expiration Date: December 31, 2014

Dear Ms. McKinney:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **January 21, 2015, 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 consider your application for registration by examination to practice as a medication aide in Virginia, and will inquire into allegations that you may have violated certain laws and regulations governing medication 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 and 18 VAC 90-60-120(2)(f) of the Regulations Governing the Registration of Medication Aides in that in or about March 2014, during the course of your employment as a direct care aide with Apple Manor, Winchester, Virginia, while providing care to Resident A, who suffered from advanced Alzheimer's disease, you hit him in the groin area in retaliation to his grabbing your breast.

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

The burden rests on you, as the applicant, to demonstrate that you meet the requirements of § 54.1-3042 of the Code.

After consideration of all information, the agency subordinate may:

- Approve your application for licensure by examination;
- Recommend to the Board that your application be approved with a reprimand, a monetary penalty, or terms and conditions, which may include placing you on probation; or
- Recommend to the Board that your application be denied;

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 January 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 January 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 January 14, 2015. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after January 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.

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
Michele Crone, Senior Investigator (Case No. 157331)
Agency Subordinate