



# COMMONWEALTH of VIRGINIA

David E. Brown, D.C.  
Director

## Department of Health Professions

Perimeter Center  
9960 Mayland Drive, Suite 300  
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Virginia Board of Nursing  
Jay P. Douglas, RN, MSM, CSAC  
Executive Director

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

July 17, 2014

Penny Kelley, L.P.N.  
1808 Sunset Drive  
Kill Devil Hills, NC 27948

**CERTIFIED MAIL**  
**7196 9008 9111 9196 9451**

**RE: VA License No.: 0002-088740  
Expiration Date: August 1, 2013**

Dear Ms. Kelley:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **August 13, 2014, 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 be in violation of an Order of the Board entered February 6, 2013 ("Board's Order") and will inquire into allegations that you may have violated certain laws governing practical nursing practice in Virginia:

Specifically, you may be in violation of § 54.1-3007(6) of the Code and Term No. 2 of the Board's Order, which required you to comply with all terms and conditions of the Health Practitioners' Monitoring Program ("HPMP"), in that on or about November 18, 2013, you were dismissed from the HPMP for noncompliance. Specifically, you tested positive for ethanol on September 23, and November 4, 2013, and the HPMP recommended that you enter an intensive outpatient treatment program; however, you failed to do so.

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.

**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, Henrico, VA 23233, by August 6, 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 August 13, 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 August 6, 2014. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after August 6, 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) 367-4617.

Sincerely,



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

GDM/sk

Enclosures

cc: Anne Joseph, Deputy Director, Administrative Proceedings Division  
Tammie D. Jones, Adjudication Specialist  
Kelly Ashley, Senior Investigator (Case no. 153878)  
Agency Subordinate  
Peggy Wood, Monitoring Program Manager