



## COMMONWEALTH of VIRGINIA

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Executive Director

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May 25, 2005

Diane Hake, R.N.  
449 Zelkova Road  
Williamsburg, VA 23185

**CERTIFIED MAIL**  
7160 3901 9848 8727 8824

RE: License No.: 0001-173517  
Expiration Date: 1/31/06

Dear Ms. Hake:

This is official notification that an Informal Conference will be held, pursuant to § 2.2-4019, § 2.2-4021 and § 54.1-2400(10) of the Code of Virginia (1950), as amended ("Code"), on **June 13, 2005, at 1:00 p.m.**, in the offices of the Department of Health Professions, 6603 West Broad Street, Fifth Floor, Richmond, Virginia. You may be represented by an attorney at the Informal Conference.

The Special Conference Committee ("Committee"), which is comprised of two or three members of the Virginia Board of Nursing, will inquire into allegations that you may have violated certain laws and regulations governing the practice of nursing in Virginia. Specifically:

1. On July 6, 2000, you entered into a Participation Contract with the Health Practitioners' Intervention Program ("HPIP"), pursuant to Chapter 25.1 of Title 54.1 of the Code and 18 VAC 76-10-10, et seq., of the Regulations Governing the HPIP. This was done with the understanding that the program is to assist those persons who have impairment, defined as "a physical or mental disability, including, but not limited to substance abuse, that substantially alters the ability of a practitioner to practice his profession with safety to his patients and the public." You signed a Recovery Monitoring Contract with the HPIP on July 26, 2000, which was superseded by a Recovery Monitoring Contract dated April 21, 2004. You may have violated § 54.1-3007(6) of the Code, in that, on December 10, 2004, you were dismissed from the HPIP program due to noncompliance. Specifically, the HPIP stated in its Report of Noncompliance, dated October 21, 2004, that you failed to enter and complete treatment as recommended, tested positive for alcohol on September 7, 2004, entered Tucker Treatment Center for detoxification from alcohol on October 15, 2004, and failed to submit to urine toxicology screens on September 29, October 8, October 13, October 14, and October 15, 2004. The

HPIP had previously submitted three (3) other Reports of Noncompliance against you. The first report, dated September 15, 2003, pertained to a positive urine drug screen for propoxyphene, a Schedule IV controlled substance, you had submitted that same day. You were asked to refrain from practice and referred to residential treatment. In the second report, dated February 26, 2003, you were cited for missing a call to NCPS on February 20, 2004, which was a test day, and for failing to send in monthly reports for January 2004. Pre-dismissal and non-compliance letters were sent to you. In the third instance, you were found to be non-compliant with your HPIP contract(s) in that you had relapsed in May 2004 with alcohol and diversion of opiates, failed to attend or call and cancel group therapy appointments in the first week of September 2004, submitted diluted urine on August 30 and 31, 2004, and submitted a urine drug screen positive for alcohol at a .29 level, on September 7, 2004.

2. During the course of your employment at the Plastic Surgery Center of Hampton Roads ("Center"), Newport News, Virginia, where you were under a work site monitoring contract through the HPIP prohibiting you from accessing and giving narcotics, you may have violated § 54.1-3007(2), (5), (6), and (8) of the Code, and 18 VAC 90-20-300(A)(2)(c) and (e) of the Regulations of the Board of Nursing. Specifically:

a. By your own admission, from January to April 2004, you requested and received Percocet 7.5/500 (oxycodone and acetaminophen), a Schedule II controlled substance, and Vicodin 5/500 (hydrocodone and acetaminophen), a Schedule III controlled substance, from the Center's recovery room nurses. You accomplished these diversions by signing out the Percocet and Vicodin under patients' names in the narcotics logs. From January 26, 2004, until April 16, 2004, you signed Percocet out for 20 patients, and Vicodin out for 12 patients, in the narcotics log. You documented in several patients' charts that they had received the medication; however, when these patients were questioned, they denied ever having received these narcotics. In some cases, you generated chart paperwork documenting treatments and medication for patients who were not seen on those dates for treatments.

b. By your own admission, you acquired 26 pre-signed prescription blanks from four (4) Center physicians for patients coming in for pre-operative histories and physical appointments. You subsequently filled in the bodies of the prescription blanks to receive Percocet, Darvocet (propoxyphene hydrochloride), a Schedule IV controlled substance, Vicodin, and Vicodin ES ((hydrocodone and acetaminophen), a Schedule III controlled substance, for your personal use. You filled most of these prescriptions in person at local pharmacies and paid for them with your insurance. All of the physicians denied ever prescribing you these narcotics. On April 21 and April 26, 2004, you called in prescriptions for Vicodin ES, identifying yourself as one of the Center's surgical technicians; however, when questioned, the surgical technician denied making such calls.

c. In early January 2004, you gave Valium (diazepam), a Schedule IV controlled substance, to a patient. When confronted by your work site monitor about how you had obtained the medication, you admitted you removed the keys to the narcotics cabinet from the pocket of her lab coat, which was in her office.

d. You misrepresented facts on your application for employment at the Center, in that you did not state the reason for leaving your employment at Plastic Surgery Specialists, Annapolis, Maryland, where

you worked from August 1996 to August 1999. Specifically, your employment was terminated after it was discovered you were calling in prescriptions for yourself for Darvon, Darvocet, and Valium and two Schedule III controlled substances Vicodin and Lortab (hydrocodone), using physician DEA numbers.

e. Your employment was terminated on May 3, 2004, for failure to show up for work.

After the conference, the Committee is authorized to take the following actions:

1. If the Committee finds that there is insufficient evidence to warrant further action or that the charges are without foundation, the Committee shall notify you by mail that your record has been cleared of any charge which might affect your right to practice nursing in the Commonwealth;
2. The Committee may place you on probation with such terms as it may deem appropriate;
3. The Committee may reprimand you;
4. The Committee may modify a previous Order;
5. The Committee may impose a monetary penalty pursuant to § 54.1-2401 of the Code; or
6. The Committee may refer the case to the Board of Nursing or a panel thereof for a formal hearing. If the Committee is of the opinion that a suspension or revocation of your license may be justified, the Committee may offer you a consent order in lieu of a formal hearing.

If you fail to appear at the informal conference, the Committee will proceed to hear the case in your absence, and may take any of the actions outlined 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 June 6, 2005. Upon its receipt in the Board office, the Consent Order will be signed and entered and the informal conference will be canceled. 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 June 6, 2005, the Board will proceed with the informal conference as scheduled.

At least ten (10) days prior to the scheduled date of the conference, please inform this office of your telephone number and whether you intend to appear at the conference. This can be done by calling our offices at (804) 662-9950 or by sending us a letter at the address listed above.

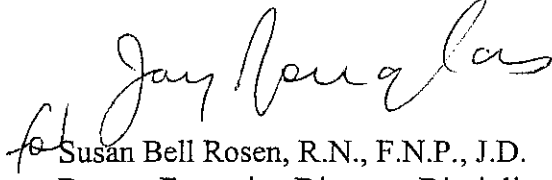
You have the right to information that the Board will rely upon in making a decision. Therefore, I have enclosed a copy of the documents that will be distributed to the members of the Committee. The Committee, when discussing the allegations with you and deliberating upon your case, will consider these documents. These documents are enclosed only with the original notice sent by certified mail, and must be claimed at the post office. Please bring these documents with you.

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If you have any additional documents to be presented to the Committee, please bring five (5) copies of each document with you.

Also, enclosed are copies of the relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as laws and regulations relating to the practice of nursing in Virginia that are cited in this notice.

Sincerely,

  
Susan Bell Rosen, R.N., F.N.P., J.D.  
Deputy Executive Director, Discipline

SBR/rw

Enclosures

cc: Robert A. Nebiker, Director, Department of Health Professions  
James L. Banning, Director, Administrative Proceedings Division  
Committee members  
Rachel Welch, Adjudication Specialist  
Lisa Thomas, R.N., Senior Investigator (Case No. 97008)  
Peggy Call, Intervention Program Manager