



COMMONWEALTH of VIRGINIA

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Director

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NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

August 2, 2013

Marsha Brown, L.P.N.
211 Tower Lane
Newport News, VA 23608

CERTIFIED MAIL
7196 9008 9111 9192 0919

RE: VA License No.: 0002-082135
Expiration Date: February 28, 2014

Dear Ms. Brown:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **August 29, 2013, 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, 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 nursing practice in Virginia.

Specifically:

1. During the course of your employment with The Gardens at Warwick Forest, Newport News, Virginia:
 - a. On or about August 9, 2012, you may have violated § 54.1-3007(2), (5), and (8) of the Code of Virginia (1950), as amended ("Code"), and 18 VAC 90-20-300(A)(2)(e) and (f) of the Regulations Governing the Practice of Nursing ("Regulations"), in that you signed off on a Medication Administration Record ("MAR") verifying the placement of a resident's Fentanyl patch, even though a nurse on the previous shift had accidentally removed the patch.
 - b. On or about July 27, 2012, you may have violated § 54.1-3007(2), (5), and (8) of the Code and 18 VAC 90-20-300(A)(2)(f) of the Regulations in that you failed to note on a resident's MAR that the

resident's order for Miralax was for a thrice-weekly administration, resulting in the resident receiving the medication every day for a period of several weeks.

c. On or about June 20, 2012, you may have violated § 54.1-3007(2), (5), and (8) of the Code and 18 VAC 90-20-300(A)(2)(f) of the Regulations in that you failed to transfer a resident's new order for Oxycontin onto the resident's MAR, resulting in the resident not receiving her prescribed medication in June and July 2012.

d. You may have violated § 54.1-3007(5) of the Code in that on multiple occasions, you failed to treat residents in a kind and respectful manner.

2. You may have violated § 54.1-3007(2), (5), and (8) of the Code and 18 VAC 90-20-300(A)(2)(f) of the Regulations in that following the termination of your employment from the Gardens at Warwick Forest in or about August, 2012, you visited and repeatedly called a resident to obtain a reference for other employment, causing the resident to suffer from anxiety and become fearful of you.

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 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 six 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 August 22, 2013. 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 29, 2013. 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 22, 2013. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after August 22, 2013 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,



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

GDM/sk

Enclosures

cc: Anne G. Joseph, Deputy Director, Administrative Proceedings Division
Peter Opper, Adjudication Specialist
Kelly D. Ashley, Senior Investigator (Case no. 146624)
Agency Subordinate