



COMMONWEALTH of VIRGINIA

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Director

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Virginia Board of Nursing
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NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

March 23, 2016

Austin H. Dementi, R.N.
a/k/a Austin Warner
3330 Medway Lane
Powhatan, VA 23139

CERTIFIED MAIL
9414 7266 9904 2062 9059 15

RE: VA License No.: 0001-189958
Expiration Date: February 28, 2018

Dear Ms. Dementi:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **April 20, 2016, 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 professional nursing practice in Virginia.

Specifically, during the course of your employment with Parham Doctors' Hospital, Richmond, Virginia, you may have violated § 54.1-3007(2), (5), and (6) of the Code and 18 VAC 90-20-300(A)(2)(c) of the Regulations Governing the Practice of Nursing in that between September 2014 and July 2015, you diverted controlled substances for your personal and unauthorized use, as evidenced by the following:

1. You administered controlled substances to other nurses' patients without their request and without notifying them on multiple occasions.
2. You changed the sharps containers more frequently than needed; this task was generally completed by technicians, not by nurses.

3. On at least two occasions, you were observed going through sharps containers.
4. According to pharmacy reports from September 2014 through June 2015, your narcotics administration was consistently multiple units of standard deviation above the mean for your peers throughout the hospital and at your station.
5. On or about November 8, 2014, you withdrew morphine sulfate 4mg (C-II) for Patient A at 12:10 and then documented wastage of the entire 4mg at 12:12:17. You had already documented administering morphine sulfate to this patient at 12:05.
6. On or about November 11, 2014, you withdrew hydromorphone 1mg (C-II) for Patient B at 12:38 and then documented wastage of the entire 1mg at 12:40. You had already documented giving hydromorphone to this patient at 12:35.
7. On or about November 14, 2014, you withdrew lorazepam 2mg (C-IV) for Patient C at 12:27 and then documented wastage of the entire 2mg at 14:27.
8. On or about November 22, 2014, you withdrew fentanyl 100mcg (C-II) for Patient D at 14:37 and then documented wastage of the entire 100mcg at 14:39.
9. On or about March 17, 2015:
 - a. You withdrew hydromorphone 2mg for Patient E at 17:54 and then documented wastage of the entire 2mg at 18:07.
 - b. You withdrew hydromorphone 1mg for Patient F at 17:19 and then documented wastage of the entire 1mg at 17:21:28. You then withdrew hydromorphone 1mg again at 17:21:58 and documented administering it at 17:26.
10. On or about April 4, 2015, you withdrew lorazepam 2mg and morphine sulfate 4mg for Patient G at 15:10 and then documented wastage of the full amount of both medications at 15:38.
11. On or about April 8, 2015, you withdrew morphine sulfate 4mg for Patient H at 08:45 and then documented wastage of the entire 4mg at 08:56.
12. On or about April 12, 2015, you withdrew morphine sulfate 4mg for Patient I at 13:59 and then documented wastage of the entire 4mg at 14:02. Another nurse had already given this medication to Patient I at 13:42 and documented relief from pain at 13:57.
13. On or about May 1, 2015, you withdrew hydromorphone 1mg for Patient J at 09:09 and then documented wastage of the entire 1mg at 09:23.
14. On or about June 15, 2015, you withdrew hydromorphone 1mg for Patient K at 21:01, but failed to document administration or wastage of the medication.

15. On or about July 12, 2015, you documented administration of hydromorphone 2mg to Patient L, but you failed to actually administer the medication.

Please see Attachment I for the names of the patients 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 professional nursing 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 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.

Since the allegations listed above involve impairment, please be advised that you may make application to the Health Practitioners' Monitoring Program ("HPMP"), which is available to all health care practitioners licensed in Virginia. Information about the HPMP is enclosed. Should you enter into a written agreement with the HPMP prior to your informal conference, the agency subordinate will take that into consideration when making a recommendation in your case.

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 April 15, 2016. 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 April 20, 2016. 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 April 15, 2016. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after April 15, 2016 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 our office, at (804) 367-4634.

Sincerely,



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

Enclosures

cc: Anne G. Joseph, Deputy Director, Administrative Proceedings Division
Sherry Foster, R.N., Senior Investigator (Case no. 164035)
Agency Subordinate