



COMMONWEALTH of VIRGINIA

Department of Health Professions

Board of Nursing

Nancy K. Durrett, R.N., M.S.N.
Executive Director
nursebd@dhp.state.va.us

September 21, 2001

6606 West Broad Street, Fourth Floor
Richmond, Virginia 23230-1717
(804) 662-9909
Nurse Aide Registry (804) 662-7310
FAX (804) 662-9512
TDD (804) 662-7197

CERTIFIED MAIL-RETURN RECEIPT REQUESTED
(ARTICLE NO. 7106 4575 1294 3556 9759)

Kenneth Frye, C.N.A.
143 Green Turtle Lane, Apt. 6
Charlottesville, Virginia 22902

RE: Certificate No. 1401-79046

Dear Mr. Frye:

This is official notification that an Informal Conference will be held pursuant to § 9-6.14:11 and § 54.1-3010 of the Code of Virginia (1950), as amended, **on October 22, 2001, at 9:00 a.m.**, at the Department of Health Professions, 6606 W. Broad Street, Fourth Floor (Southern States Building), Richmond, Virginia 23230. You may be represented by an attorney at the conference.

The Special Conference Committee, which is comprised of at least two members of the Virginia Board of Nursing, will inquire into allegations that you may have violated certain laws and regulations governing nurse aide practice in Virginia. Specifically, you may have violated § 54.1-3007(2), (5) and (8) of the Code of Virginia (1950), as amended, and 18 VAC 90-20-360(2)(e) of the Board of Nursing Regulations, in that:

During the course of your employment with Heritage Hall Nursing Home, Charlottesville, Virginia:

1. On or about September 25, 2000, you grabbed Resident A by the arm and removed the doll she was holding. Subsequently, you threw the doll onto the floor and stomped on it. Your actions caused the resident to cry, and in an effort to console the resident, you attempted to kiss the resident on her hand but she pulled away. As a result of your actions, your employment was terminated.
2. On or about September 25, 2000, a coworker reported that when your residents were checked on, all of them were "in a mess."

3. On or about September 29, 2000, your termination document noted that you were not eligible for rehire because you have an explosive temper, exhibit poor conduct in the presence of residents to include possible abusive behavior, and that you are uncooperative and insubordinate.
4. On or about February 1, 1999, you received an employee counseling form in your personnel file for failing to make rounds every two (2) hours, and provide resident care. Specifically, your assigned residents were found in bed with two (2) or three (3) pads underneath of them that were yellow and brown in color, their briefs were extremely wet with urine and the residents' bottom and top bed sheets were soiled.
5. By your own admission, on one occasion, you talked with a resident "man to man" and there was some cursing involved in the conversation not directed at the resident.

After the conference, the conference 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 as a nurse aide 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 impose a monetary penalty pursuant to § 54.1-2401 of the Code; or
5. The Committee may refer the case to the Board of Nursing or a panel thereof for a formal hearing. If the Conference Committee is of the opinion that a suspension or revocation of your certificate may be justified, the Committee may offer you a consent order in lieu of a formal hearing.
6. If the committee finds that there is sufficient evidence to find you in violation of the above charge(s) and § 54.1-3007(8) of the Code, the committee shall make a finding of abuse, neglect or misappropriation of patient property, which will be entered in the Virginia Nurse Aide Registry pursuant to 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D) of the Code of Federal Regulations. According to 42 CFR § 483.13(c)(1)(ii)(B) of the federal regulations, such a finding will prohibit your future employment as a certified nurse aide in any long term care facility, which receives Medicare or Medicaid reimbursement.

If you fail to appear at the informal conference, the Conference Committee may proceed to

Kenneth Frye, C.N.A.

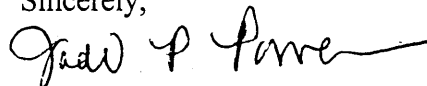
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hear the case in your absence, and may take any of the actions outlined above. **Please inform this office at (804) 662-7165 about whether you intend to appear at the conference at least ten (10) days prior to the scheduled date specified above. Also, please inform the Board office of a telephone number where you may be reached.**

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

You have the right to information that will be relied upon by the Board in making a decision. Therefore, I have enclosed a copy of the documents that will be distributed to the members of the Committee and will be considered by the Committee 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, and must be claimed at the post office. 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 nurse aides in Virginia that are cited in this notice.

Sincerely,



Jodi P. Power, R.N., J.D.
Assistant Executive Director
Board of Nursing

JPP/gem/jwm
Enclosures

cc: John W. Hasty, Director
Leith D. Ellis, Investigator (Case # 79046)
James L. Banning, Director for Adm. Proceedings
Gayle E. Miller, Senior Adjudication Analyst