



COMMONWEALTH of VIRGINIA

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Director

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NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

August 19, 2013

Kristy L. Miller, C.N.A., R.M.A.
Post Office Box 1393
Cedar Bluff, VA 24609

CERTIFIED MAIL
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RE: VA Certificate No.: 1401-143564
Expiration Date: March 31, 2014

RE: VA Registration No.: 0031-005425
Expiration Date: February 28, 2014

Dear Ms. Miller:

This letter is official notification that an informal conference of the Virginia Board of Nursing (“Board”) will be held on **September 10, 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 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 nurse aide and medication aide practice in Virginia.

Specifically:

1. You may have violated § 54.1-3007(2), (5) and (6) of the Code and 18 VAC 90-25-100(2)(c) of the Regulations Governing Certified Nurse Aides and 18 VAC 90-60-120(2)(c) of the Regulations Governing the Registration of Medication Aides in that during the course of your employment with Hummingbird Retirement Villa, Lebanon, Virginia, on or about April 22, 2013, you tested positive for oxycodone (Schedule II), opiates and tricyclic antidepressants, for which you did not have valid prescriptions. By your own admission, you consumed Lortab (hydrocodone, Schedule III), Percocet (oxycodone) and Klonopin (clonazepam, Schedule IV) that were not prescribed to you.

2. You may have violated § 54.1-3007(6) of the Code in that in the General District Court of Russell County, Virginia, you had the following misdemeanor convictions:

- a. On July 25, 2005, you were convicted of drinking while operating a vehicle;
- b. On February 22, 2006, you were convicted of underage possession of alcohol;
- c. On January 23, 2008, you were convicted of public intoxication.

3. You may have violated § 54.1-3007(1) and (3) of the Code, 18 VAC 90-25-100(1)(b) of the Regulations Governing Certified Nurse Aides and 18 VAC 90-60-120(1)(b) of the Regulations Governing the Registration of Medication Aides in that on the nurse aide application for certification by examination dated February 5, 2011, and on the medication aide application for certification by examination dated August 5, 2011, you answered "no" to the questions pertaining to criminal convictions, when, in fact, you had the criminal convictions referenced in allegation #2.

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 as a nurse aide and as a medication aide 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 certificate and/or registration, 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.**

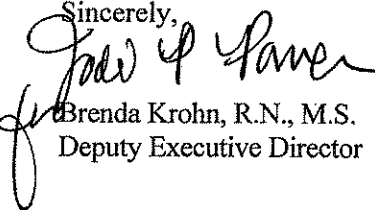
To facilitate this proceeding, you should submit five copies of any documents you wish the agency subordinate to consider to the Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, by September 3, 2013. Your documents may not be submitted by facsimile or email.

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 September 10, 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 September 3, 2013. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after September 3, 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) 367-4614.

Sincerely,



Brenda Krohn, R.N., M.S.
Deputy Executive Director

BK/fdb
Enclosures

cc: Anne Joseph, Deputy Director, Administrative Proceedings Division
Tammie D. Jones, Adjudication Specialist
Jennifer Baker, Senior Investigator (Case no. 150639/150640)
Agency Subordinate
Peggy Wood, Monitoring Program Manager