



COMMONWEALTH of VIRGINIA

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Director

Department of Health Professions

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Virginia Board of Nursing
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Executive Director

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NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

August 8, 2013

Kimberly Nickey, L.P.N.
10541 Boxcastle Road
Glen Allen, Virginia 23060

CERTIFIED MAIL
7160 3901 9848 6288 0752

RE: VA License No.: 0002-068426
Expiration Date: October 31, 2013

Dear Ms. Nickey:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **September 4, 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 practical nursing practice in Virginia.

Specifically, you may have violated § 54.1-3007(2), (5), and (8) of the Code and 18 VAC 90-20-300(A)(2)(a) and (b) of the Regulations Governing the Practice of Nursing in that during the course of your employment with Medi Home Health and Hospice, Richmond, Virginia:

1. On or about February 12, 2013, when Patient A had a physician's order for .5mg of lorazepam (Schedule IV), every two to four hours, as needed, you documented administering 1.75mg of lorazepam during a 45-minute period, which exceeded the physician's order by 1.25ml for the drug.
2. On or about February 13, 2013, when Patient A had a physician's order for .25ml to .5ml of morphine (Schedule II) every two to four hours, you documented administering 1.25ml of morphine to Patient A during a one-hour period, which exceeded the physician's order by approximately .75ml for the narcotic.
3. On or about January 16, 2013, when Patient B had a physician's order for .3ml of Haldol (haloperidol, Schedule VI), as needed, every four hours, and 1ml of Dilaudid (hydromorphone, Schedule II), as

needed, every four hours, you documented administering 1.1 ml of Haldol and 2ml of Dilaudid to Patient B during a period of approximately 3 hour and 10 minutes. This exceeded the physician's order for Haldol by .8ml and exceeded the order for Dilaudid by 1ml.

4. From January 14, 2013, to January 15, 2013, during your 7:00 p.m. to 7:00 a.m. shift:

a. When Patient B did not have a physician's order for morphine, you documented administering morphine to Patient B.

b. When Patient B had a physician's order for .3ml of Haldol, every four hours, as needed, you documented administering approximately 1.1ml of Haldol to Patient B during an approximately 3 hour and 15 minute period, which is .8ml more than the physician's order for the medication.

c. When Patient B had a physician's order for Dilaudid, as needed, for pain, and a physician's order for Haldol, as needed, for agitation, you documented administering Haldol and Dilaudid at 7:00 a.m. to Patient B without documenting a reason for administering the drugs.

Please see Attachment I for the name of the patients referred to 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 as a practical 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 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.

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.**

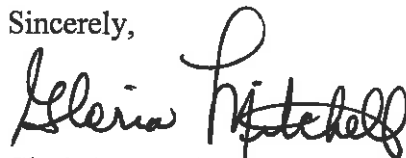
To facilitate this proceeding, you should submit five copies of any documents you wish the agency subordinate to consider to the Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, by **August 28, 2013**. Your documents may not be submitted by facsimile or email.

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 4, 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 28, 2013. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after August 28, 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 me, at (804) 367-4614.

Sincerely,



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

GDM/sts

Enclosures

cc: Anne Joseph, Deputy Director, Administrative Proceedings Division
James E. Rutkowski, Adjudication Specialist
Vicky Fox, R.N., Senior Investigator (Case no. 149274)
Agency Subordinate