



COMMONWEALTH of VIRGINIA

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

November 6, 2009

Crystal D. Smith, C.N.A.
834 Eagle Bottom
Fries, Virginia 24330

CERTIFIED MAIL
71603901984801631971

RE: Certificate No.: 1401-114937
Expiration Date: July 31, 2010

Dear Ms. Smith:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **December 1, 2009, at 1:00 p.m.**, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Richmond, 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 practice in Virginia.

Specifically,

1. You may have violated § 54.1-3007(2), (5) and (8) of the Code and 18 VAC 90-25-100(2)(e) of the Regulations Governing Certified Nurse Aides ("Regulations") in that during the course of your employment with Carrington Place of Wytheville-Birdmont Center, Wytheville, Virginia ("Carrington Place"):
 - a. On or about April 30, 2009, you failed to provide timely incontinent care for Resident A and, by your own admission, you failed to adequately clean her following a bowel movement.
 - b. On or about March 1, 2009, you left Resident B alone and unattended in a Hoyer Lift for an extended period of time.

2. You may have violated § 54.1-3007(2) of the Code and 18 VAC 90-25-100(2)(d) of the Regulations in that:

a. On your application for employment with Carrington Place, dated on or about August 25, 2008, when asked to list your employment for the last seven years:

i. You failed to list your employment with Waddell Nursing Home, Galax, Virginia ("Waddell Nursing Home") from October, 2007, until June, 2008.

ii. You stated that your reason for leaving Trinity Mission of Hillsville, Hillsville, Virginia ("Trinity Mission"), was "to find a job closer to home," and your reason for leaving Interim Health Care, Roanoke, Virginia ("Interim Health Care") was "I need a full time job," when your employment was actually terminated from both facilities.

b. On your application for employment with Interim Health Care, dated on or about July 1, 2008:

i. When asked to list all present and past employment, you failed to list your employment with Waddell Nursing Home from October, 2007, until June, 2008.

ii. You stated your reason for leaving Trinity Mission was "to find work closer to where I live," when your employment was actually terminated in October, 2007.

Please see Attachment I for the names of the residents 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 as a nurse 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, 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.

If the agency subordinate 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 agency subordinate shall recommend that the Board 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), such a finding will prohibit your future employment as a certified nurse aide in any long term care facility that receives Medicare or Medicaid reimbursement.

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 November 24, 2009. 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 December 1, 2009. 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 November 24, 2009. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after November 24, 2009, will not be considered.

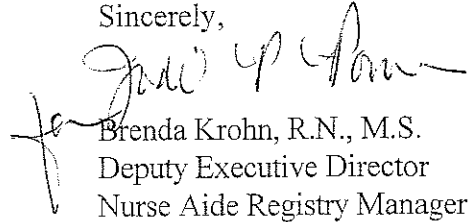
Relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as laws relating to the practice of nursing and other healing arts in Virginia cited in this notice can be found on the Internet at <http://leg1.state.va.us>. To access this information, please click 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.

In the event of inclement weather, please be advised that Board of Nursing hearings will be held unless state offices are closed. Please listen to television or radio announcements to provide information about official

state closings or delays. If there is a delayed opening, hearings will begin at the time of the agency opening. A recorded announcement pertaining to closings or delays will also be available by calling the main telephone number for the Department of Health Professions at (804) 367-4400.

Sincerely,

A handwritten signature in black ink, appearing to read "Brenda Krohn", is written over the typed name and title. The signature is fluid and cursive, with a large initial "B" and a long horizontal stroke at the end.

Brenda Krohn, R.N., M.S.
Deputy Executive Director
Nurse Aide Registry Manager

Enclosures

cc: Sandra Whitley Ryals, Director, Department of Health Professions
Anne G. Joseph, Deputy Director, Administrative Proceedings Division
LaRhonda J. Carter, Adjudication Specialist
James Wall, Senior Investigator (Case no. 126145)
Agency Subordinate