



COMMONWEALTH of VIRGINIA

Dianne L. Reynolds-Cane, M.D.
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

June 13, 2013

Windy I. Markham, L.P.N.
Post Office Box 573
106 Jackson Street
Gordonsville, VA 22942

CERTIFIED MAIL
7160 3901 9849 2200 8676

8718 Jenny Lane
Fredericksburg, VA 22407

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7160 3901 9849 2200 8683

RE: VA License No.: 0002-052629
Expiration Date: November 30, 2014

Dear Ms. Markham:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **July 9, 2013, at 10:30 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:

1. During the course of your employment with Dogwood Village of Orange County, Virginia, you may have violated § 54.1-3007(2), (5), and (8) of the Code and 18 VAC 90-20-300(A)(2)(c), (e), and (f) of the Regulations Governing the Practice of Nursing in that, by your own admission, from on or about July 2012 to February 2013, you diverted Dilaudid (hydromorphone, Schedule II) tablets from Resident A's PRN supply, falsely documented administration to Resident A, and kept the medications for your personal and unauthorized use.

2. You may have violated § 54.1-3007(6) of the Code in that you may be unable to safely practice practical nursing due to substance abuse, as evidenced by the following:

- a. By your own admission, in approximately 2011, you became addicted to heroin and practiced nursing while under the influence of heroin.
- b. On or about February 13, 2013, you tested positive for opiates, marijuana, and heroin metabolites.
- c. By your own admission, in April 2013, you used methadone, for which you did not have a valid prescription, to wean yourself off of heroin.

Please see Attachment I for the name of the resident 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 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 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 July 2, 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 July 9, 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 July 2, 2013. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after July 2, 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) 367-4617.

Sincerely,



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

GDM/sk

Enclosures

cc: Anne Joseph, Deputy Director, Administrative Proceedings Division
Tammie D. Jones, Adjudication Specialist
Ron Houser, Senior Investigator (Case no. 149216)
Agency Subordinate
Peggy Wood, Monitoring Program Manager