



COMMONWEALTH of VIRGINIA

Sandra Whitley Ryals
Director

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

April 8, 2009

Joyce Outen, R.N.
5351 Palmer Lane
Williamsburg, Virginia 23188

CERTIFIED MAIL
71603901984534269724

**RE: VA License No.: 0001-206736
Expiration Date: January 31, 2010**

Dear Ms. Outen:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **April 22, 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 professional nursing practice in Virginia.

Specifically:

1. You may have violated of § 54.1-3007(2), (5) and (6) of the Code and 18 VAC 90-20-300(A)(2)(c) of the Regulations Governing the Practice of Nursing ("Regulations") in that during the course of your employment with Sentara Williamsburg Orthopaedic Associates, Williamsburg, Virginia, between November 20, 2004, and July 15, 2005, you obtained by fraud 360 tablets of hydrocodone/APAP 5-500mg (Vicodin, Schedule III), by phoning in prescriptions for yourself, with the staff physician as the ordering party without his knowledge or authorization.

2. You may have violated § 54.1-3007(1) of the Code and 18 VAC 90-20-300(A)(1)(b) of the Regulations in that on your application for licensure by examination as a professional nurse, received by the Board on March 22, 2007:

a. You answered "No" to question 3d "Have you ever been convicted, pled guilty to or pled Nolo Contendere to any violation of any federal, state or other statute or ordinance constituting a felony or misdemeanor? (Including convictions for driving under the influence, but excluding traffic violations ?" when, in fact, on or about August 21, 2006, you pled guilty to Obtaining Drugs by Fraud in the Circuit Court of the City of Williamsburg and County of James City, Virginia.

b. You answered "No" to question 3e "Do you have a mental, physical, or chemical dependency condition which could interfere with your current ability to practice nursing?" when, in fact, you were diagnosed with opioid dependence and completed a 16-week outpatient substance abuse program, you acknowledged to the investigator for the Department of Health Professions on October 15 and December 2, 2008.

2. You may have violated § 54.1-3007(2) of the Code and 18 VAC 90-20-300(A)(2)(e) of the Regulations in that you failed to disclose on your application to your current employer, Bon Secours Mary Immaculate Hospital, Newport News, Virginia, your termination from Sentara Williamsburg Orthopaedic Associates, Williamsburg, Virginia, for obtaining medication by fraud.

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 professional 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.

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 April 15, 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 April 22, 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 April 15, 2009. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after April 15, 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) 367-4576.

Sincerely,



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

Enclosures

cc: Sandra Whitley Ryals, Director, Department of Health Professions
Anne G. Joseph, Deputy Director, Administrative Proceedings Division
Cynthia E. Gaines, Adjudication Specialist

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Vicky Fox, Senior Investigator (Case no. 121708)
Agency Subordinate