



COMMONWEALTH of VIRGINIA

Dianne L. Reynolds-Cane, M.D.
Director

Department of Health Professions

Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

www.dhp.virginia.gov
TEL (804) 367-4400
FAX (804) 527-4475

Virginia Board of Nursing
Jay P. Douglas, RN, MSM, CSAC
Executive Director

Board of Nursing (804) 367-4555
Nurse Aide Registry (804) 367-4639
FAX (804) 527-4455

NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

March 21, 2013

Kim Whitt, L.P.N.
1086 Kimberlin Road
Rural Retreat, VA 24368

CERTIFIED MAIL
71603901984922041857

RE: VA License No.: 0002-085191
Expiration Date: January 31, 2013

Dear Ms. Whitt:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **April 18, 2013, at 1:00 p.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 nursing practice in Virginia.

Specifically:

1. On or about December 4, 2011, during the course of your employment as a practical nurse at Carrington Place at Wytheville, Wytheville, Virginia:
 - a. You may have violated § 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 you diverted nine tablets of methadone 5 mg and 15 tablets of methadone 10 mg (both Schedule II), from a medication cart for your own personal and unauthorized use. You stated to the Department of Health Professions' investigator that

you diverted the medication to wean yourself off hydrocodone (Schedule III), to which you admitted being addicted.

b. You may have violated § 54.1-3007(2) and (5) of the Code and 18 VAC-90-20-300(A)(2)(e) of the Regulations in that you failed to add two narcotic prescriptions delivered to your medication cart to the cart's inventory record. This allowed you to divert the methadone from the cart without showing a change in the overall inventory of the cart.

2. You may have violated § 54.1-3007(6) of the Code in that you may be unable to practice nursing safely due to your admitted addiction to narcotics. On or about October 19, 2012, you were dismissed from the Health Practitioners' Monitoring Program ("HPMP") for noncompliance, including failure to return a Recovery Monitoring Contract by the specified deadline, failure to submit reporting forms in June 2012, missed check-ins to the test line on June 19 and July 30, 2012, and a failed drug screen on July 24, 2012. The discharge diagnosis included opioid dependence.

The Board hereby offers to enter into the enclosed Consent Order with you in lieu of an informal conference in this matter. Please review this document, and should you consent to its terms, sign it in the presence of a notary public. In order for this Consent Order to become effective, you must return the entire document bearing your witnessed signature to the Board office on or before *April 12, 2013*. Upon its receipt in the Board office, the Consent Order will be entered and the informal conference will be cancelled. You will receive a certified copy of the Consent Order, bearing the date of entry, shortly thereafter. Should the Board not receive this signed Consent Order from you by 5:00 p.m. on April 12, 2013, the Board will proceed with the informal conference as scheduled.

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.

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.**

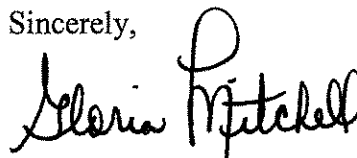
To facilitate this proceeding, you should submit five copies of any documents you wish the agency subordinate to consider to the Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, by April 12, 2013. Your documents may not be submitted by facsimile or email.

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 **April 18, 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 April 12, 2013. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after April 12, 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) 367-4543.

Sincerely,



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

Enclosures

cc: Anne G. Joseph, Deputy Director, Administrative Proceedings Division
Peter Oppen, Adjudication Specialist
James Wall, Senior Investigator (Case no.146135)
Agency Subordinate
Peggy Wood, Monitoring Program Manager