



COMMONWEALTH of VIRGINIA

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NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

April 11, 2013

Kimberly Leftwich, R.N., L.N.P.
272 Shady Square
Galax, Virginia 24333

CERTIFIED MAIL
71603901984922042410

RE: VA License No.: 0001-160613
Expiration Date: August 31, 2014

VA License No.: 0024-166238
Expiration Date: August 31, 2014

Dear Ms. Leftwich:

This letter is official notification that an informal conference of the Virginia Committee of the Joint Boards of Nursing and Medicine ("Committee of Joint Boards") and Board of Nursing ("Board") will be held on **May 8, 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") and 18 VAC90-30-240 of the Regulations Governing the Licensure of Nurse Practitioners 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 and nurse practitioner practice in Virginia.

Specifically:

1. You may have violated § 54.1-3007(2), (5) and (8) of the Code, 18 VAC 90-20-300(A)(2)(e) of the Regulations Governing the Practice of Nursing and 18 VAC 90-30-220(4) of the Regulations Governing the Licensure of Nurse Practitioners in that by your own admission, you fraudulently wrote prescriptions for yourself, using your husband's name as the patient.

2. You may have violated § 54.1-3007(6) of the Code and 18 VAC 90-30-220(5) of the Regulations Governing the Licensure of Nurse Practitioners in that you may be unsafe to practice nursing and as a nurse practitioner due to alcohol abuse, as evidenced by the following:

a. On or about October 26, 2011, you were involved in a motor vehicle accident, where you failed all administered field sobriety tests and registered a 0.30 blood alcohol content on the breathalyzer.

b. On or about August 31, 2012, you pled guilty to and were convicted of driving while intoxicated, second offense within two years, in the Grayson County, Virginia, Circuit Court.

c. On or about March 14, 2012, you entered into a Participation Contract with the Health Practitioners' Monitoring Program ("HPMP") and signed a Recovery Monitoring Contract on or about April 30, 2012. On or about July 20, 2012, you were dismissed from the HPMP for non-compliance with your Recovery Monitoring Contract.

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 and/or as a nurse practitioner 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.

Boards' 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 the Committee of the Joint Boards and to a quorum of the Board. The Committee of the Joint Boards and 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 Committee

of the Joint Boards or the Board, you have the right to a formal administrative hearing before the Committee of the Joint Boards or 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 the Committee of the Joint Boards and to a quorum of the Board. The Committee of the Joint Boards and the Board may accept or modify the recommendation, or reject the recommendation. The Committee of the Joint Boards' and 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.**

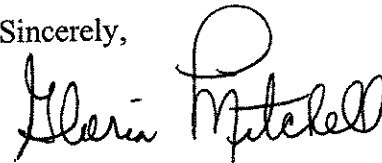
To facilitate this proceeding, you should submit five copies of any documents you wish the agency subordinate to consider to the Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, by May 3, 2013. Your documents may not be submitted by facsimile or email.

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 **May 8, 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 May 3, 2013. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after May 3, 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, Discipline

Enclosures

cc: Anne G. Joseph, Deputy Director, Administrative Proceedings Division
Olivia Exterovich, Adjudication Specialist
Kimberly Whittemore, R.N., Senior Investigator (Case No. 141965)
Agency Subordinate
Peggy Wood, Monitoring Program Manager