



COMMONWEALTH of VIRGINIA

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NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

April 8, 2005

Marilyn Hong, R.N.
2630 South Veitch Street, #204
Arlington, Virginia 22206

CERTIFIED MAIL
7160 3901 9848 8727 7919

Dear Ms. Hong:

This letter is official notification that an informal conference of the Virginia Board of Nursing will be held on April 29, 2005, at 1:00 p.m., at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia. In accordance with Sections 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 Section 2.2-3700 *et. seq.* of the Code. The agency subordinate will inquire into allegations that you may have violated certain laws governing the practice of professional nursing in Virginia. Specifically:

You may have violated § 54.1-3007(6) of the Code, in that, you may be impaired as a result of alcohol or drugs, or by mental or physical illness rendering you unsafe to practice. Specifically, you have a history of sedative-hypnotic/anxiolytic dependence, alcohol dependence and major depressive disorder, recurrent, moderate. Further, during the course of your employment at INOVA Alexandria Hospital, Alexandria, Virginia, on or about February 21, 2003, you were observed exhibiting behaviors consistent with impairment, and as a result, you were asked to submit a urine drug screen and blood sample for testing. By your own admission, you asked a patient to provide a urine sample, which you then submitted as your own, because you were taking Fioricet (butalbital), a Schedule VI controlled substance, at that time. Following your entry into the Health Practitioners' Intervention Program ("HPIP") on March 31, 2003, the HPIP granted you a stay of disciplinary action

on June 20, 2003. You were dismissed from the HPIP by letter dated December 21, 2004, for non-compliance, based upon your failure to refrain from practice after your case manager instructed you to do so, and your continued use of controlled substances and alcohol. Specifically, you had positive urine drug screens for Valium on May 28, 2004, and June 9, 2004, and positive urine drug screens for alcohol on October 13, 2004, and November 29, 2004.

After consideration of all information, the agency subordinate may:

1. Recommend to the Board that you be exonerated, that there be a finding of no violation, or that insufficient evidence exists to determine that a statutory/regulatory violation has occurred; or
2. Recommend findings of fact, conclusions of law and a sanction, to include a reprimand, placing you on probation with terms, or imposing a monetary penalty pursuant to Section 54.1-2401 of the Code.

Further, the agency subordinate may recommend that your application or reinstatement request be approved or denied, that a previous Board Order be modified, or refer this matter for a formal administrative proceeding pursuant to Section 2.2-4019 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, and must be claimed at the post office. Further, if you retain counsel, it is your responsibility to provide the enclosed materials to your attorney.

To facilitate this proceeding, you should submit four (4) copies of any documents you wish for the agency subordinate to consider to Susan Rosen, 6603 West Broad Street, 5th Floor, Richmond, Virginia 23230-1712, by April 22, 2005. Your documents may not be submitted by facsimile or e-mail.

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 29, 2005. 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 28, 2005. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after April 28, 2005, 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 medicine 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. Relevant copies of the *Code of Virginia* and the Board of Nursing Regulations are included in this mailing.

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) 662- 9950.

Sincerely,



Susan Bell Rosen, R.N., F.N.P., J.D.
Deputy Executive Director, Discipline

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Enclosures:

Informal Conference Package (259 pgs.)
Map

cc: Agency Subordinate
Robert A. Nebiker, Director, Department of Health Professions
James L. Banning, Director, Administrative Proceedings Division
John K. Dickinson, Adjudication Specialist
Pamela Kincheloe, Senior Investigator (100734)