



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) 367-4515
Nurse Aide Registry (804) 367-4569
FAX (804) 527-4455

NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

October 15, 2012

Brenda J. Smith, R.N.
103 East Alexandria Avenue
Alexandria, VA 22301

CERTIFIED MAIL
7196 9008 9111 0158 6617

RE: VA License No.: 0001-203757
Expiration Date: July 31, 2014

Dear Ms. Smith:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **November 8, 2012, 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 professional nursing practice in Virginia.

Specifically, during the course of your employment with Inova Fairfax Hospital, Falls Church, Virginia:

1. You may have violated § 54.1-3007(2), (5), (6), and (8) 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 fentanyl and Dilaudid (hydromorphone), (both Schedule II) for your personal and unauthorized use, as evidenced by the following:

a. On or about November 10, 2011, you withdrew fentanyl 250mcg for Patient A and documented administering 50mcg, leaving 200 mcg unaccounted for.

b. On or about November 22, 2011, you withdrew fentanyl 250mcg for Patient B and documented administering 25mcg, leaving 225 mcg unaccounted for.

c. On or about December 5, 2011, you withdrew one Dilaudid 2mg tablet for Patient C; however, you failed to document administering or wasting the medication.

d. On or about December 28, 2011, you withdrew Dilaudid 100ml for the PCA pump for Patient D; however, you failed to document administering or wasting the medication.

e. On or about January 6, 2012, you withdrew Dilaudid 100ml for the PCA pump for Patient E; however, you failed to document administering or wasting the medication.

f. On or about March 12, 2012, you withdrew fentanyl 100mcg for Patient F and documented administering 50mcg, leaving 50 mcg unaccounted for.

g. On or about March 19, 2012, you withdrew fentanyl 100mcg for Patient G and documented administering 25mcg, leaving 50 mcg unaccounted for.

2. You may have violated § 54.1-3007(2) and (5) of the Code and 18 VAC 90-20-300(A)(2)(c) of the Regulations in that by your own admission, you diverted Ventolin from the anesthesia cart in the cardiovascular operating room ("CVOR"), for the unauthorized use of a family member. On April 12, 2012, an unopened vial of diphenhydramine 50mg/ml that had been obtained under a patient's name was found in your locker. Further, on multiple occasions between October 2011, and March 2012, you were observed searching through the anesthesia cart in the CVOR; however, you were assigned to work in the Post Anesthesia Care Unit and had no legitimate reason for being in the CVOR.

Please see Attachment I for the names of the patients 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 November 1, 2012. 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 November 8, 2012. 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 November 1, 2012. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after November 1, 2012, 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, Discipline

Enclosures

cc: Anne Joseph, Deputy Director, Administrative Proceedings Division
Tammie D. Jones, Adjudication Specialist
Naima Fellers, Senior Investigator (Case no. 144430)
Agency Subordinate
Peggy Wood, Monitoring Program Manager