



COMMONWEALTH of VIRGINIA

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

Department of Health Professions

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

NOTICE OF INFORMAL CONFERENCE BEFORE AN AGENCY SUBORDINATE

April 15, 2013

Amber Hargis, C.N.A. Applicant
2004 Sunrise Avenue
Chesapeake, VA 23324

CERTIFIED MAIL
7160 3901 9848 0164 9655

8305 Kanter Avenue
Norfolk, Virginia 23518

CERTIFIED MAIL
7160 3901 9848 6292 2544

Dear Ms. Hargis:

This letter is official notification that an informal conference of the Virginia Board of Nursing ("Board") will be held on **May 7, 2013, at 10:30 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(7) and (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 consider your application for certification by examination as a nurse aide and will inquire into evidence that grounds may exist to deny your application.

Specifically:

1. You may have violated § 54.1-3007(2), (5) and (8) of the Code and 18 VAC 90-25-100(2)(e) of the Regulations Governing Certified Nurse Aides ("Regulations") in that:

a. During the course of your employment with Arcadia Home Care and Staffing, Norfolk, Virginia, on or about October 24, 2012, you abandoned a patient, undressed, to whom you were assigned to dress and transport to an appointment with a physician.

b. During the course of your employment with Sentara Nursing Center-Chesapeake, Chesapeake, Virginia, on or about June 9, 2006, you hit Resident A on the hand three times.

2. You may have violated § 54.1-3007(2), (3), and (5) of the Code and 18 VAC 90-25-100(2)(d) of the Regulations in that on your application for employment with Arcadia Home Care and Staffing dated March

25, 2011, you marked “Yes” to the question “Do you have a current state professional license/certification without restrictions?” when, in fact, you did not have a current state professional license or certification.

Please see Attachment I for the name of the resident referenced above.

The burden rests on you, as the applicant, to demonstrate that you meet the requirements of § 54.1-3023 of the Code.

After consideration of all information, the agency subordinate may:

- Approve your application for certification by examination;
- Recommend to the Board that your application be approved with a reprimand, a monetary penalty, or terms and conditions, which may include placing you on probation;
- Recommend to the Board that your application be denied;

Further, the agency subordinate may refer this matter for a formal administrative proceeding pursuant to § 2.2-4020 of the Code.

If the agency subordinate finds that there is sufficient evidence to find you in violation of the above charge(s) and § 54.1-3007(8) of the Code, the agency subordinate shall recommend that the Board make a finding of abuse, neglect, or misappropriation of patient property, which will be entered in the Virginia Nurse Aide Registry pursuant to 42 CFR § 483.156(b)(2) and (c)(1)(iv)(D) of the Code of Federal Regulations. According to 42 CFR § 483.13(c)(1)(ii)(B), such a finding will prohibit your future employment as a certified nurse aide in any long term care facility that receives Medicare or Medicaid reimbursement.

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.**

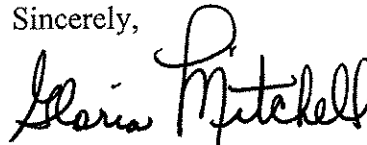
To facilitate this proceeding, you should submit five copies of any documents you wish the agency subordinate to consider to the Board of Nursing, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, by May 1, 2013. Your documents may not be submitted by facsimile or email.

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 7, 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 1, 2013. Only one such motion will be considered. Absent critical circumstances, such as personal or family illness, a request for a continuance after May 1, 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 the office, at (804) 367-4634.

Sincerely,



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

GDM/sts

Enclosures

cc: Anne Joseph, Deputy Director, Administrative Proceedings Division
James Rutkowski, Adjudication Specialist
Ashley Moran, Senior Investigator (Case no. 149174)
Agency Subordinate