



DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER
Durham VA Health Care System
508 Fulton Street
Durham, North Carolina 27705

In Reply Refer To: 558 / 00P

FOIA Request # 22-08657-F

September 16, 2022

Roger Rabbit
481 Majority Rd
Orangeburg, SC 29118

Dear Mr. Rabbit:

This letter is the initial agency determination to your August 24, 2022 request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, submitted to the Durham VA Health Care System FOIA Office, for a copy of:

“This is a request under the Freedom of Information Act (5 U.S.C. 552). I request that a copy of the following documents be provided.

1. Any and all records and communications the Durham VAMC possesses regarding any meetings, interactions, emails, or other correspondence between the selecting official and approving official for Job Vacancy Announcement CBTA-11593771-22-TW posted 08/02/2022 to 08/16/2022.
2. Resume of all applicants who applied for Job Vacancy Announcement CBTA-11593771-22-TW posted 08/02/2022 to 08/16/2022.
3. Resume of all applicants who were interviewed for Job Vacancy Announcement CBTA-11593771-22-TW posted 08/02/2022 to 08/16/2022
4. Resume Screening Grid for Job Vacancy Announcement CBTA-11593771-22-TW posted 08/02/2022 to 08/16/2022.
5. I request a waiver of all fees for this request.”

Your FOIA request was received in my office on August 25, 2022. Your request was placed in the simple processing category.

Fees

Based on the information provided in your request, I have classified you as an “all other” FOIA requester. As an all other requester, VA FOIA implementing regulations found at 38 C.F.R. § 1.555 state that the first 100 pages of duplication and first two hours of search time will be furnished without charge. Your request took less than two

hours of search time and there is no charge for duplication since the cost is less than \$25.00. Therefore, no fees are assessed. However, please be advised that we reserve the right to assess fees as appropriate under the FOIA on any and all future FOIA requests as your waiver of all fees is denied.

Search for Records

A comprehensive search for agency records has been completed. We have concluded that the Durham VA Health Care System has 67 pages of records responsive to your request. However, 67 pages are being withheld in part as noted in FOIA Exemption 6 and 5 below. Courts have determined the reasonableness of an agency's search can depend on whether the agency properly determined where responsive records were likely to be found and searched those locations. [See *Iacoe v. IRS*, No. 98-C-0466, 1999 WL 675322, at *4 (E.D. Wis. July 23, 1999) (recognizing that agency "diligently searched for the records requested in those places where [agency] expected they could be located")]

The records search was assigned to the VISN-6 HR Strategic Business Partner Service on August 24, 2022. Staff within the VISN-6 HR Strategic Business Partner Service who are familiar with the record keeping system conducted the search and were able to locate the documents enclosed. The search was not directed to any other service or department at the Durham VA Health Care System as the VISN-6 HR Strategic Business Partner Service are responsible for maintaining records pertaining to the requested records/documents. Search concluded September 15, 2022.

Initial Agency Decision

Upon my review I have found information protected under the FOIA, specifically FOIA Exemption 6, 5 U.S.C. § 552(b)(6) and FOIA Exemption 5, 5 U.S.C. § 552(b)(5). For ease of reference, I have Bates numbered the document 001 - 067. I have also enclosed the FOIA Fact Sheet-Release Info Job Applicants as additional information.

The below identifies the documents and exemptions that were applied along with the justification for withholding.

FOIA Exemption 6 [5 U.S.C. § 552 (b)(6)] covers "personnel and medical files and similar files which, if disclosed, could reasonably be expected to constitute an unwarranted invasion of personal privacy" Stated another way, VA may withhold information under FOIA Exemption 6 where disclosure of the information, either by itself or in conjunction with other information available to either the public or the FOIA requester, would result in an unwarranted invasion of an individual's personal privacy without contributing significantly to the public's understanding of the activities of the federal government.

It is our determination that Exemption 6 protects information which would lead to a clearly unwarranted invasion of personal privacy. It is commonly held that public servants retain a privacy interest in their identity, particularly when release of their identities could subject them to annoyance or harassment. *New England Apple Council*,

Inc. v. Donovan, 725 F.2d 139 (1st Cir. 1984); Cal-Trim, Inc. v. I.R.S., 484 F.Supp 2d 1021 (D. Ariz. 2007); Van Mechelen v. U.S. Department of the Interior, No. 05-5393, 2005 WL 3007121 (W.D. Wash. Nov. 9, 2005). These individuals have a significant privacy interest in their identities along with other personal information. Moreover, the release of personal information does nothing to inform how the government carries out its business. Accordingly, even a minimal privacy interest outweighs no public interest in that information. Any potential general public interest in the agency's conduct of its business is satisfied by our disclosure that appropriate personnel conducted their duties as assigned and as documented in the information released to you and as outlined above.

Additionally, see *Alirez v. NLRB*, 676 F.2d 423, 428 (10th Cir. 1982) finding that deletion of names and other identifying data pertaining to small group of co-workers was simply inadequate to protect them from embarrassment or reprisals because requester could still possibly identify individuals. The disclosure would result in serious invasion of privacy, potentially subjecting employees and others to embarrassment, reprisal, or harassment.

In *United States Department of Justice v. Reporters committee for Freedom of the Press*, 489 U.S. 749 (1989), we must determine if a privacy interest is involved, and determine if disclosure of the requested information would serve the public interest and balance the personal privacy interest against the public interest.

In evaluating the public interest in a given case, we must focus on the nature of the requested document and its relationship to the public interest generally. We must consider whether disclosure of the requested document, or portions thereof that have been withheld, would "open agency action to the light of public scrutiny" rather than focus on the particular purpose for which the document is being requested. See *Reporters Committee*, 489, U.S. at 772.

The coverage of FOIA Exemption 6 is absolute unless the FOIA requester can demonstrate a countervailing public interest in the requested information by demonstrating that the individual is able to provide the requested information to members of the general public and that the information requested contributes significantly to the public's understanding of the activities of the Federal government. Additionally, the requester must demonstrate how the public's need to understand the information significantly outweighs the privacy interest of the person to whom the information pertains. Upon consideration of the materials provided, it is recognized that you are able to provide the requested information to members of the general public however; I have not been able to identify a countervailing public interest of sufficient magnitude to outweigh the privacy interest in this case. Consequently, I am denying your request for this information under FOIA Exemption 6, 5 U.S.C. § 552 (b)(6). Inserted is (b6) to identify the FOIA Exemption applied.

Specifically, the information we are withholding, as indicated on the enclosed document, under FOIA Exemption 6 consists of the following, as the individuals associated with this information have a personal privacy interest in it which is not negated by your first party right of access for certain information:

- Request the resumes and screening grids of all applicants interviewed and selected for the above referenced announcement: Your name was not listed on the resume screening grids nor was your resume listed for job announcement (CBTA-11593771-22-TW) requests above. The announcement was closed, and no selection was made for the position. The information I am withholding, as indicated on the enclosed documents, under FOIA Exemption 6 consists of the unsuccessful candidates' names, personal address, contact information, titles and position, education and trainings as the individual associated with this information have a personal privacy interest in it. No pages were withheld in their entirety.
- No selection was made for the following requested position:
 - #1 Position: Job Vacancy Announcement CBTA-11593771-22-TW
- Candidate names, scores and/or comments, contact information, employee names, title, email and contact information.

FOIA Exemption 5, [5 U.S.C. § 552(b)(5)] covers “pre-decisional documents and similar records.” Upon review of the responsive records, it is our determination that they contain information, which is protected under FOIA Exemption 5, [5 U.S.C. § 552(b)(5)]. Therefore, I am withholding the interviewer’s notes and scores for your interview under FOIA Exemption 5.

FOIA Exemption 5 permits VA to withhold a document or information contained within a document as “pre-decisional” if two requirements are met. First, if there is an identifiable deliberative process. Second, the agency generated the information or document as part of the agency decision process. Stated another way, VA may withhold information under Exemption 5 where the document or its content makes recommendations or expresses opinions about legal or policy matters during a decision-making process and the document is not the decision document or incorporated into the decision document. Additionally, as a matter of Federal policy, the agency must state an articulable, foreseeable harm to the agency or its activities that could occur as a result of release of the document or information.

The email communications contain the unadopted opinions of VA personnel participating in the hiring process. Disclosure of this information could compromise the integrity of the deliberative process or hamper frank and open discussions among employees.

Specifically, the information we are withholding, as indicated on the enclosed document, under FOIA Exemption 5 consists of the following:

- Internal responses, request information and results from questions annotated by VA personnel participating in the hiring process as it related to the disposition of the job announcement. You were not granted an interview nor listed on the

screening grids. Therefore, 4 pages that include the VA personnel responses have been withheld as this information have a personal privacy interest in it.

Appeal Rights

This FOIA request was processed by the undersigned. If you disagree with the decision to withhold information under FOIA Exemption 6 and 5 and information Under the DOJ Guide, please be advised you may appeal to:

Office of the General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420

If you should choose to file an appeal, your appeal must be postmarked or electronically transmitted no later than ninety (90) calendar days from the date of this letter. Please include a copy of this letter with your written appeal and clearly state why you disagree with the determinations set forth in this response.

In addition to filing an appeal with the Office of General Counsel regarding my determination, you may also seek assistance and/or dispute resolution services regarding your FOIA request from VHA's FOIA Public Liaison and or Office of Government Information Services (OGIS) as provided below:

VHA FOIA Public Liaison:
Email Address: vhafoia2@va.gov
Phone Number: (877) 461-5038

Office of Government Information Services (OGIS)
Email: ogis@nara.gov
Fax: (202) 741-5769
Mailing address: Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001

If you have any questions regarding this matter, please contact me at (919) 416 - 5981 or via VHADURFOIA@va.gov. If you are unable to reach me, please leave a phone message and I will return your call as soon as I am able.

Sincerely,



Owen McNeil
Privacy/FOIA Officer
Durham VA Health Care System
enclosure

Application Screening Tool: SPS - ANM

Date: 8/23/2022 (b) (6)

Performance Criteria:	#1	#2	#3	#4	#5	#6	#7	#8	#9	#10	#11	#12	#13	#14	#15	#16	#17
SPS Experience (recent within past 2 years): >5years - 5 <5 years - 2 No experience - 0	(b) (6)																
OR Experience (recent within past 5 years): >5years - 5 <5 years - 2 No experience - 0																	
Program/Policy Development: >2 years - 5 <2 years - 2 No experience - 0																	
Certification: SPS/AORN/relevant - 5 Other - 2 None - 0																	
Leadership/Charge Nurse Experience: Yes - 5 No - 0																	
Education: MSN - 5 BSN - 2 ADN/Diploma - 1																	
VA Experience: Yes - 5 No - 0																	
Total Score:		(b) (6)															

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Team Members: _____

**Nurse Manager Scoring Grid for Chief SPS Vacancy # 11274461
(b) (6) Reviewer)**

#	Name	Current Job	Years of Nursing Experience- 10+=5, 2-5 yrs=2, <2=0	Nurse Manager Experience- 10+=5, 2-5 years=2, <2=0	OR, SPS or Perioperative Experience 10+yrs=5, 2-5 years=2, <2years=0	Education- Masters=5, Bachelor=2	VA Experience Y=5, N=0	Certifications- Y=5, N=0	Total Points Available (30)	Interview
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OBJECTIVE: Full-time Registered Nurse Position

QUALIFICATIONS:

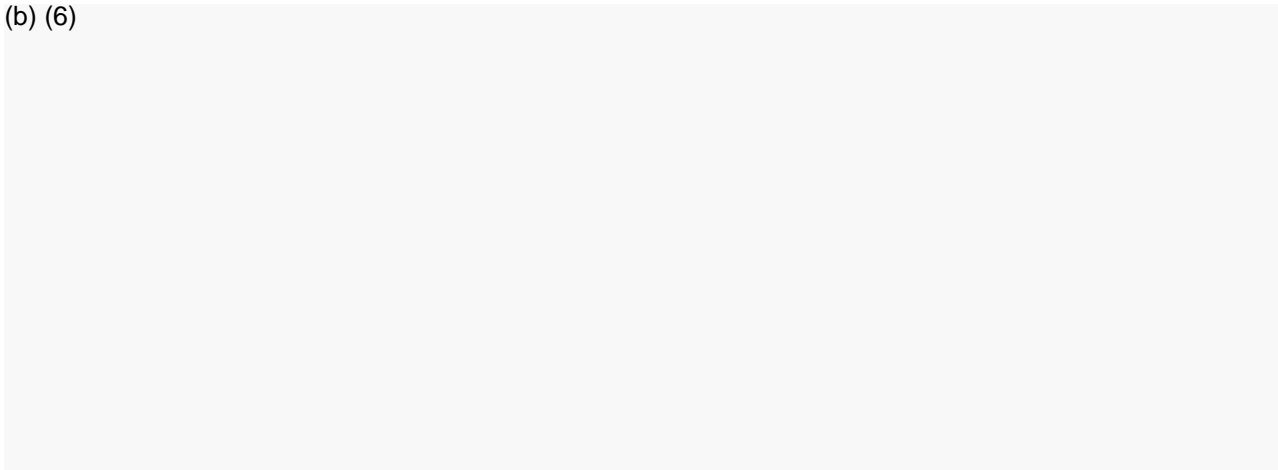
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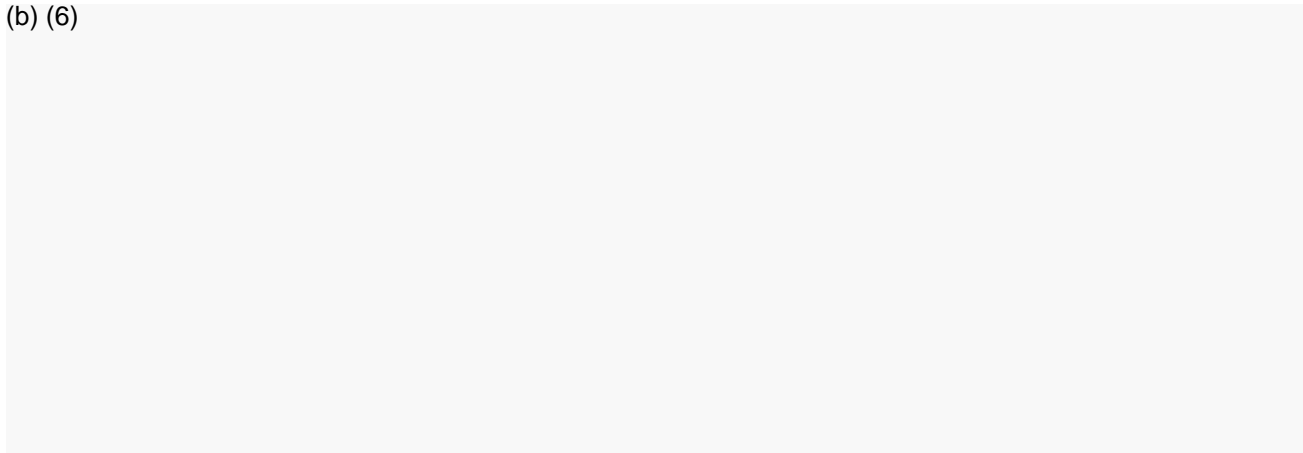
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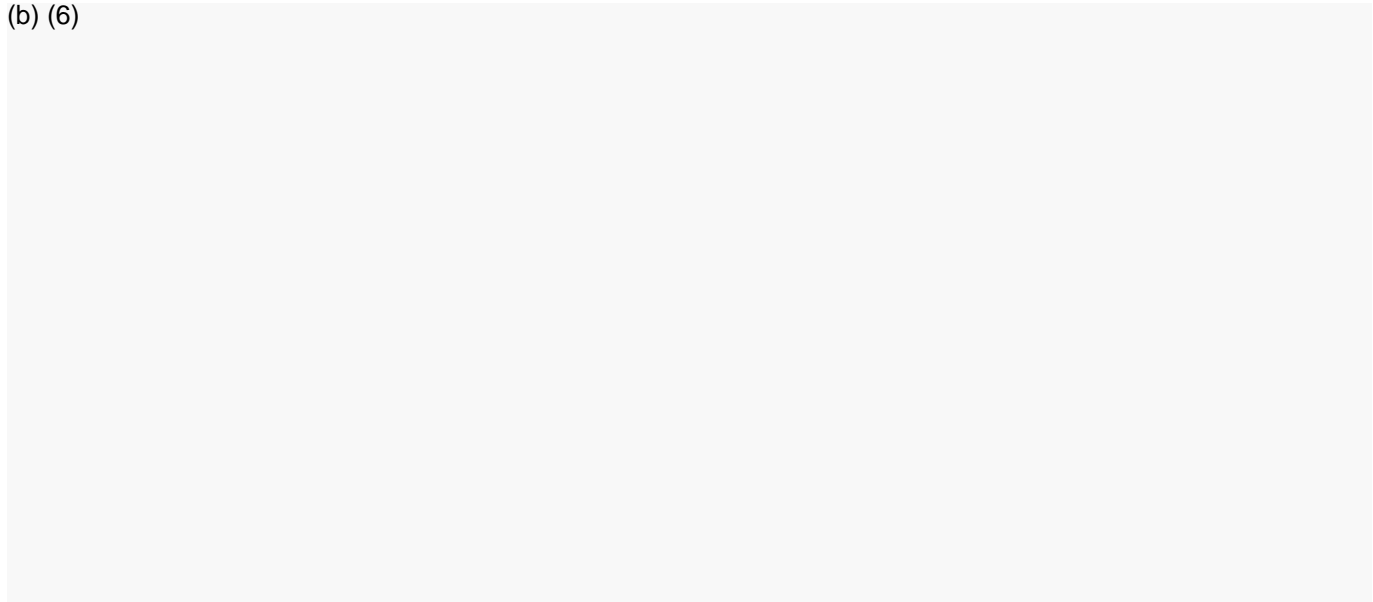


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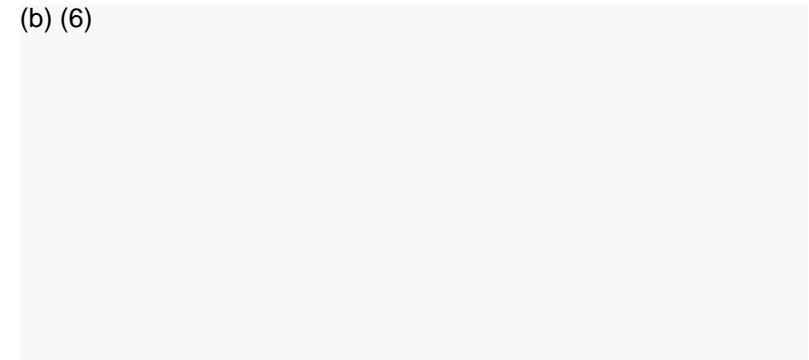
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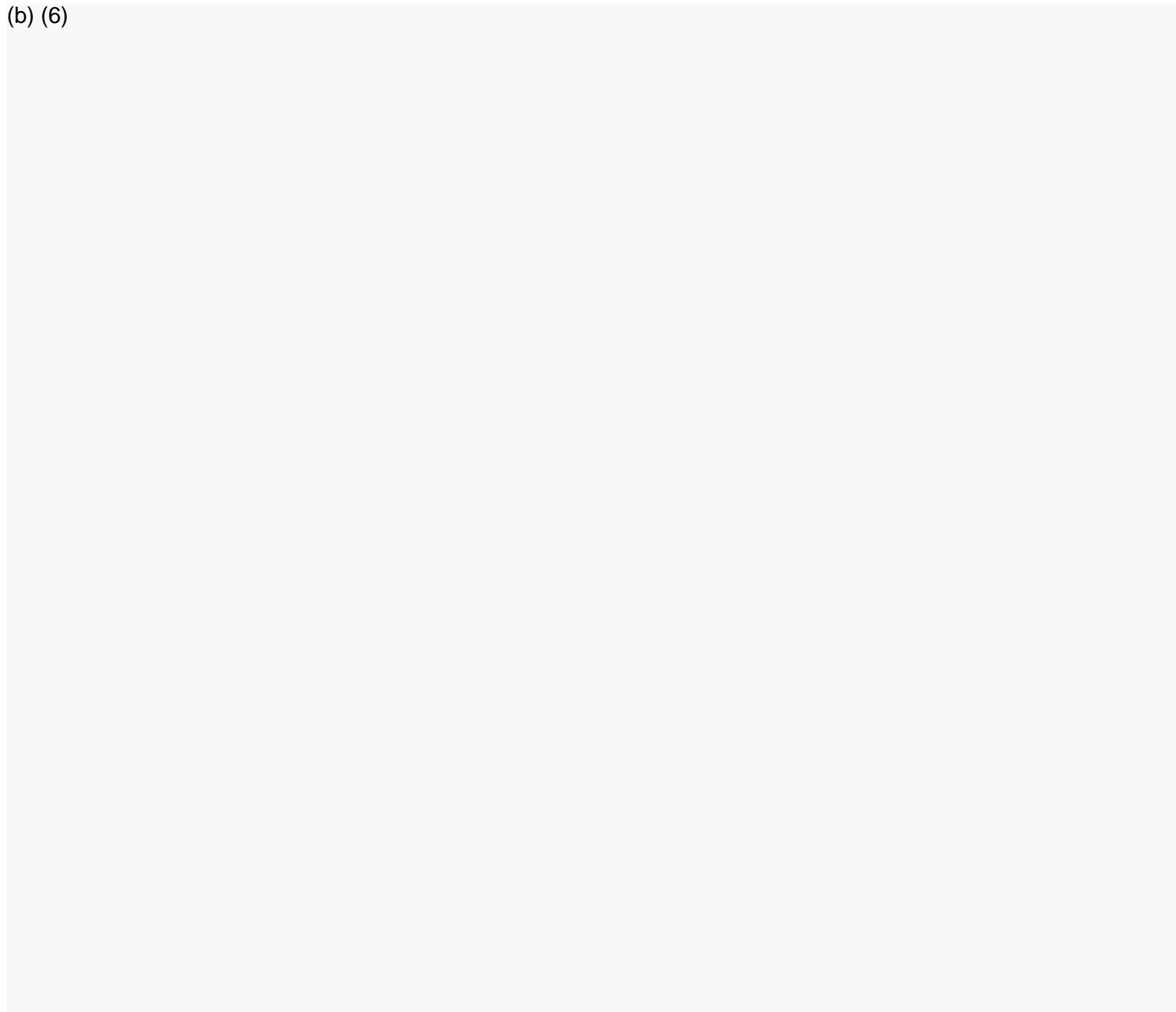
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REFERENCES:

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Education:

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Work Experience:

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EXPERIENCE

SKILLS

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- Charge Nurse/Preceptor
- Nursing Leadership
- Staff Development
- Med-Surg/ Med-Psych
- Progressive/Intermediate
- Behavioral Health
- Neuro- NIH Stroke Scale
- Ortho Surgery
- Blood Transfusions
- IV Med Administration
- Phlebotomy
- Telemetry Certified
- Trach Care/Suction
- Wound Care/ Wound Vac
- Foley Catheterization
- NG Feeds
- Ostomy Care
- Chest Tubes
- CoVid-19 + Care

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LICENSURE/ CERTIFICATIONS

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ACKNOWLEDGMENTS

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ORGANIZATIONS

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EDUCATION

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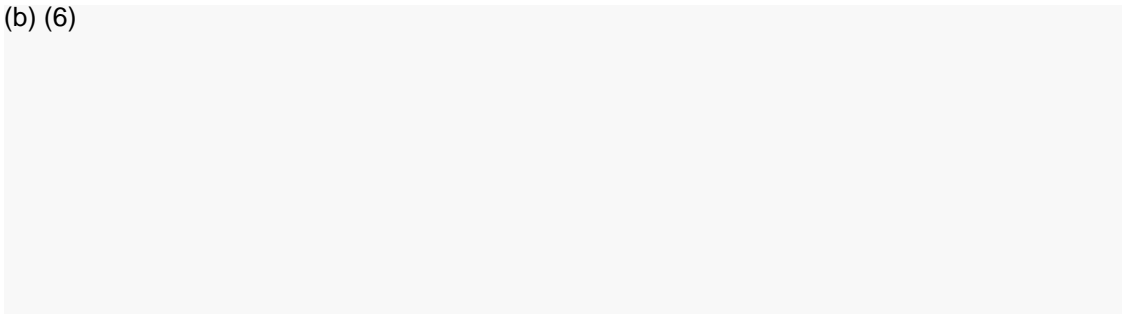
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Certification:

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Professional Experience:

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Available upon request

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***PROFESSIONAL
EXPERIENCE***

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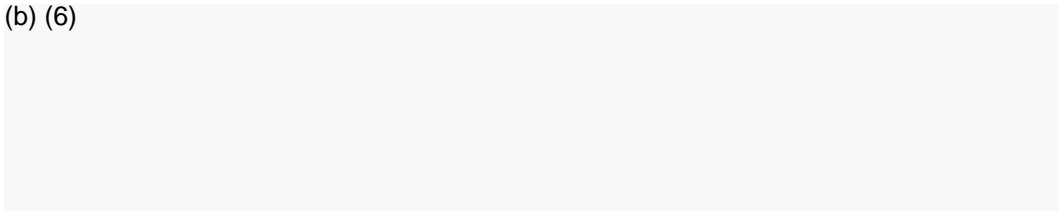
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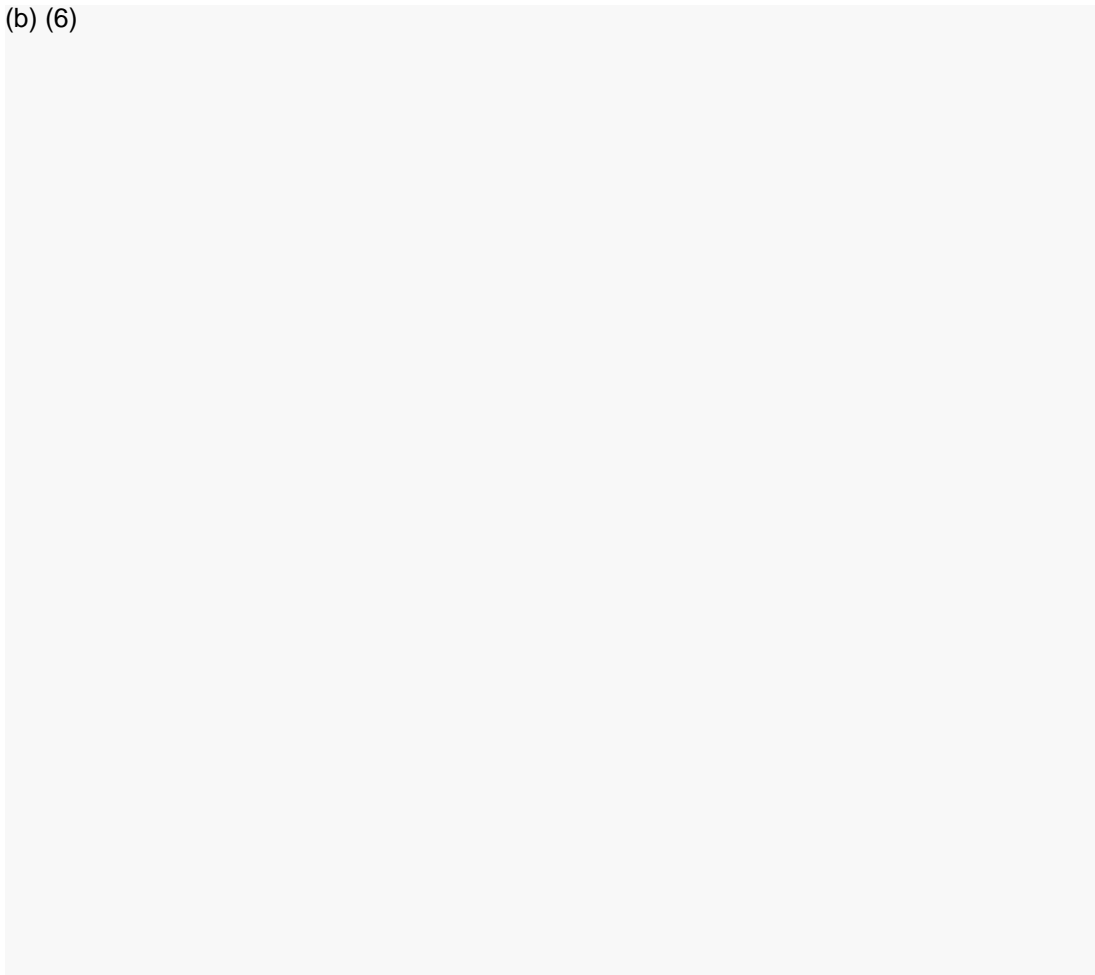
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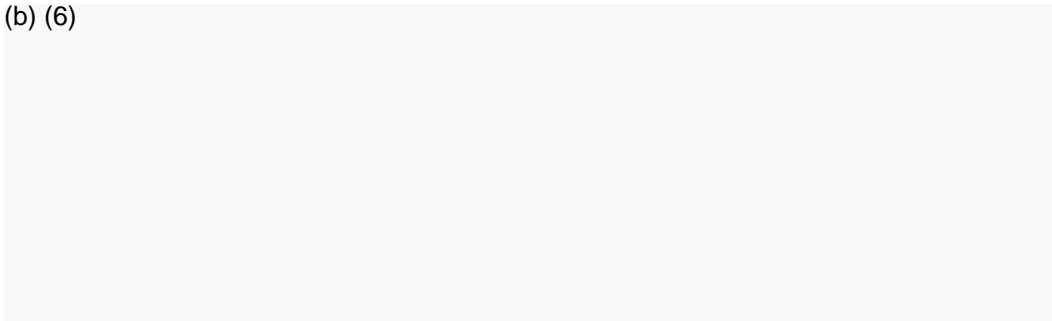


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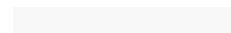
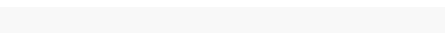
EDUCATION

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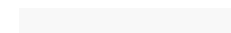
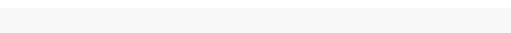
LICENSE

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***PROFESSIONAL
CERTIFICATIONS***

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***PROFESSIONAL
AFFILIATIONS***

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OBJECTIVE

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EXPERIENCE

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EDUCATION

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LICENSURE/CERTIFICATION

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SKILLS

- Critical Care
- Working knowledge of Utilization Review
- Case Management
- Discharge Planning
- Compliance with regulatory bodies
- Coordination of clinical team
- EPIC electronic medical records

ACTIVITIES AND HONORS

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REFERENCES

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Objective:

To be in a challenging work environment with opportunities for personal and professional growth, where my leadership experience and skills will be fully utilized to help maintain and improve the health of the veteran community.

Professional Education:

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Relevant Coursework, Licenses and Certifications:

- Management and Leadership
- Managing Human Resources
- Healthcare Administration
- Policies and Issues in Health Care
- Strategic Management
- Marketing Strategy
- Analytical Decision Making
- Managerial Accounting
- Managerial Finance
- Managerial Economics
- Information Systems
- Business Ethics from a Christian Perspective
- LeadX First Line Supervisor learning

Highlights: Experience & Skills

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Experience:

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Professional References

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Deeply committed to caring for individuals, I aspire to be a valuable team player and advocate for my patients/families within your organization. I look forward to challenges, which will give me the opportunity to utilize my nursing skills, therapeutic communication and allow me to continually grow as a profession nurse.

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EDUCATION:

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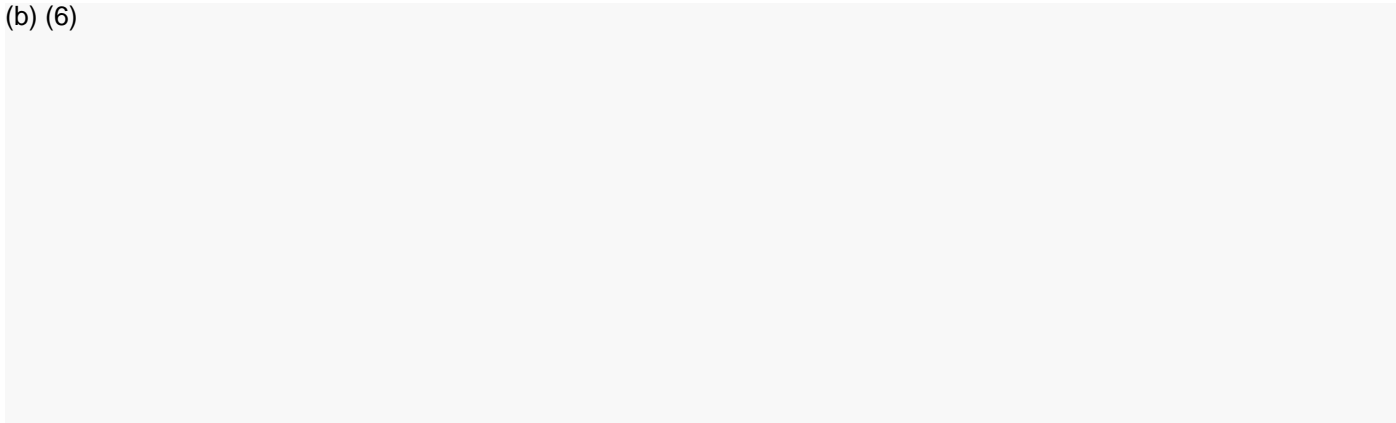


LEADERSHIP:

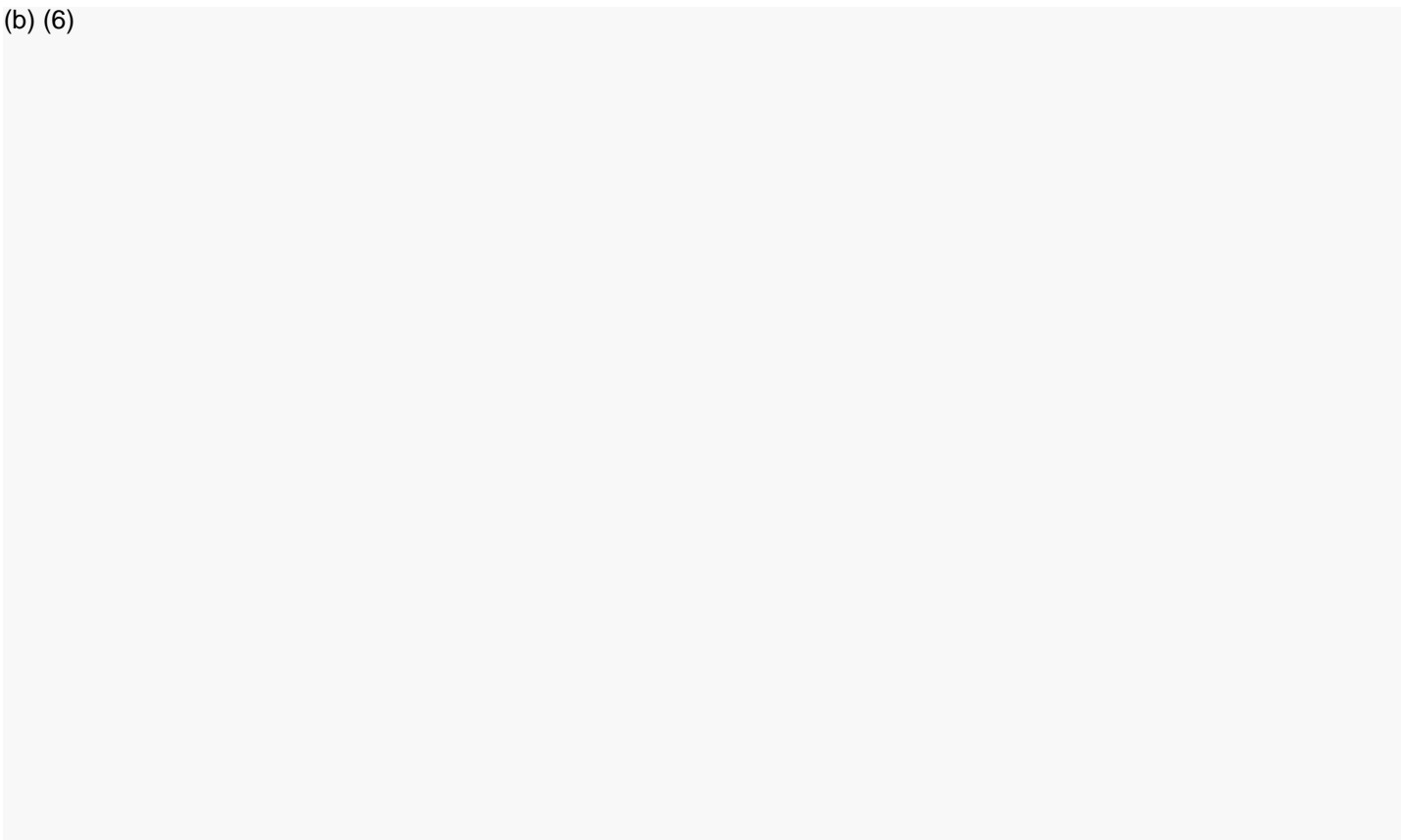
- I have obtained leadership experience in school-based and hospital setting between 2006 to 2021

EXPERIENCE:

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Energetic self-motivated Bilingual individual with proven performance as a Registered Nurse on a Telemetry, Hemo-Oncology, Med-Surg, MICU/SICU, CLC and Spinal cord unit setting. Seeking employment as a Registered Nurse where I can apply my skills

1. EXPERIENCE

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EDUCATION

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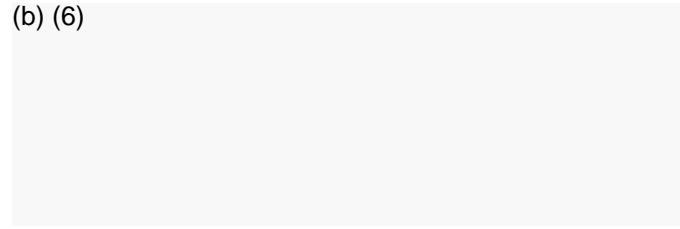


5. CERTIFICATIONS

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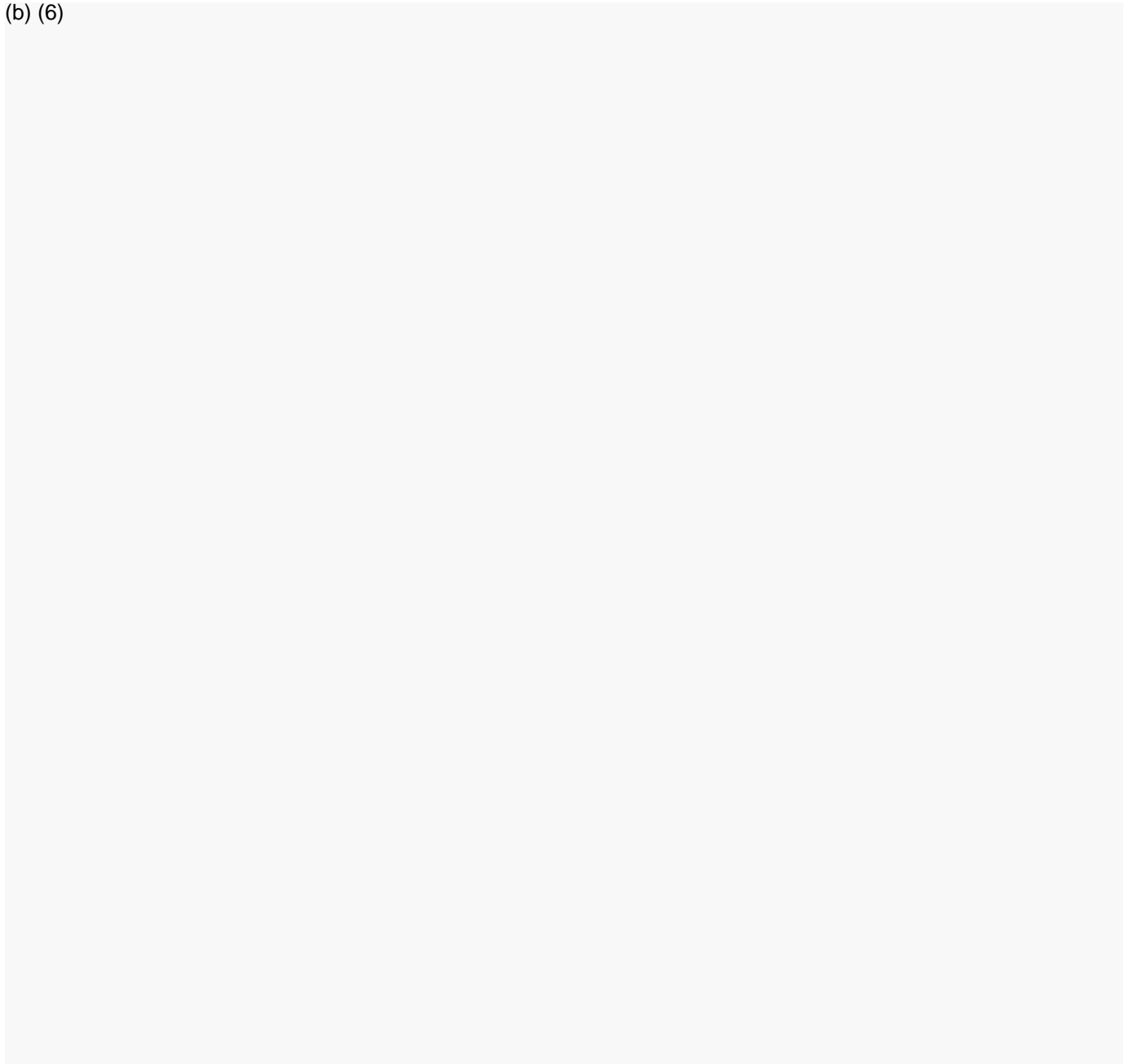
PROFILE

Self-motivated, organized nursing professional with over nine years' experience trained in a level one trauma center operating room. Effective at multi-tasking and working under pressure to accomplish the overall objective of the organization.

PROFESSIONAL BACKGROUND

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PROFESSIONAL BACKGROUND, Continued

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PROFESSIONAL BACKGROUND, Continued

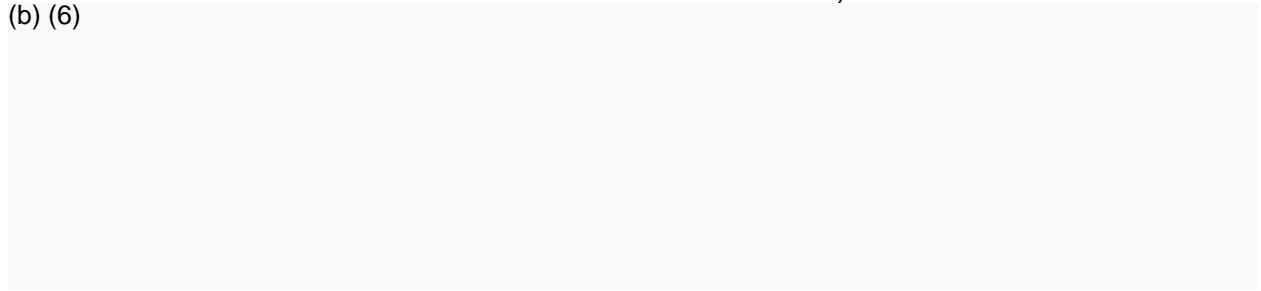
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PROFESSIONAL BACKGROUND, Continued

(b) (6)



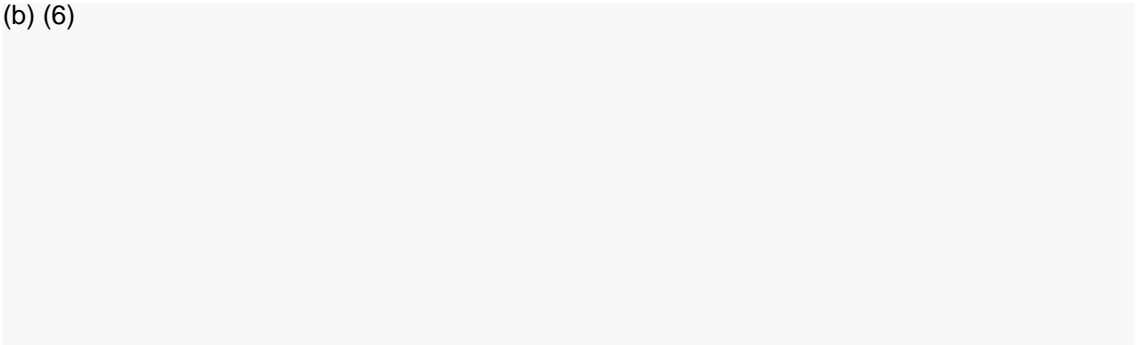
EDUCATION

(b) (6)



LICENSES/CERTIFICATIONS

(b) (6)



SKILLS

Super User for Censitrac electronic medical instrumentation tracking system.

Extensive working knowledge with VISTA Logistical Menus, VATAS, TMS, LEAF, CPRS, EER, BCMA and other VA software programs.

Solid working knowledge of Micro Soft Office Suite programs.

Subject Matter Expert for Surgical Procedures, Instrumentation and Surgical Environment.

Subject Matter Expert for Critical and Semi-Critical Reusable Medical Equipment, including reprocessing, transportation, and storage.

(b) (6)

PROFESSIONAL BACKGROUND, Continued

Subject Matter Expert for broad range of equipment in OR and Sterile Processing Areas, including instrumentation, endoscopes, and other RME.

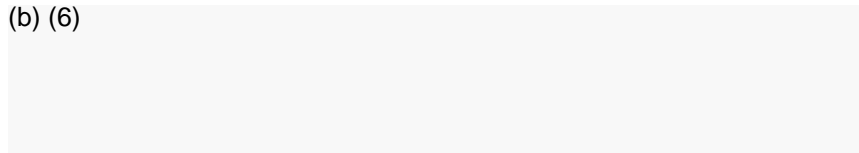
(b) (6)

Supports VA Mission, including HRO and iCARE values and principles.

MILITARY EXPERIENCE & COMMUNITY ENGAGEMENT

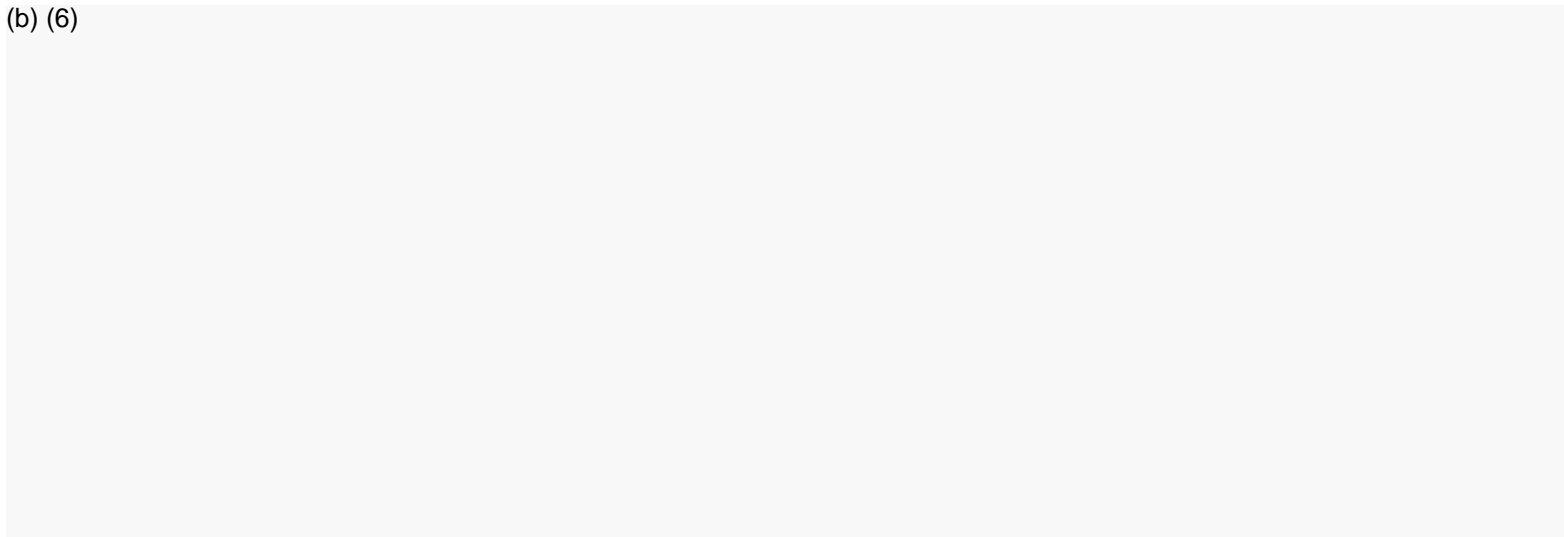
(b) (6)

(b) (6)



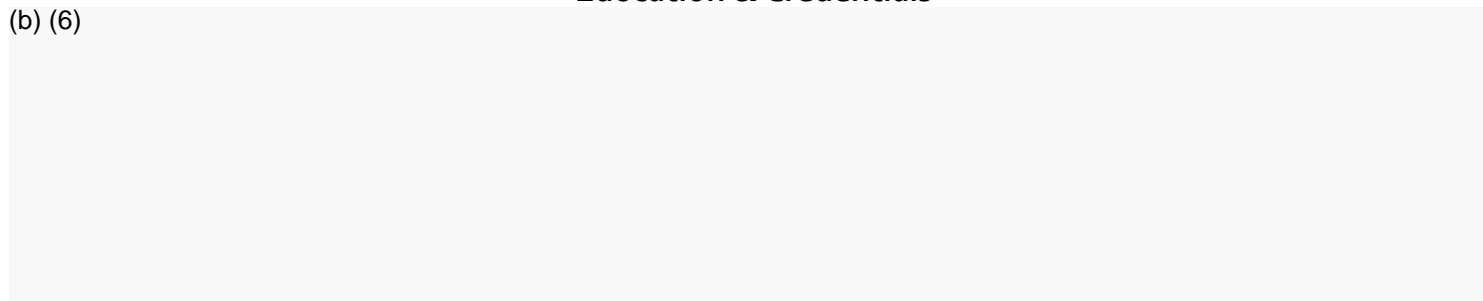
Family Nurse Practitioner Professional Profile

(b) (6)



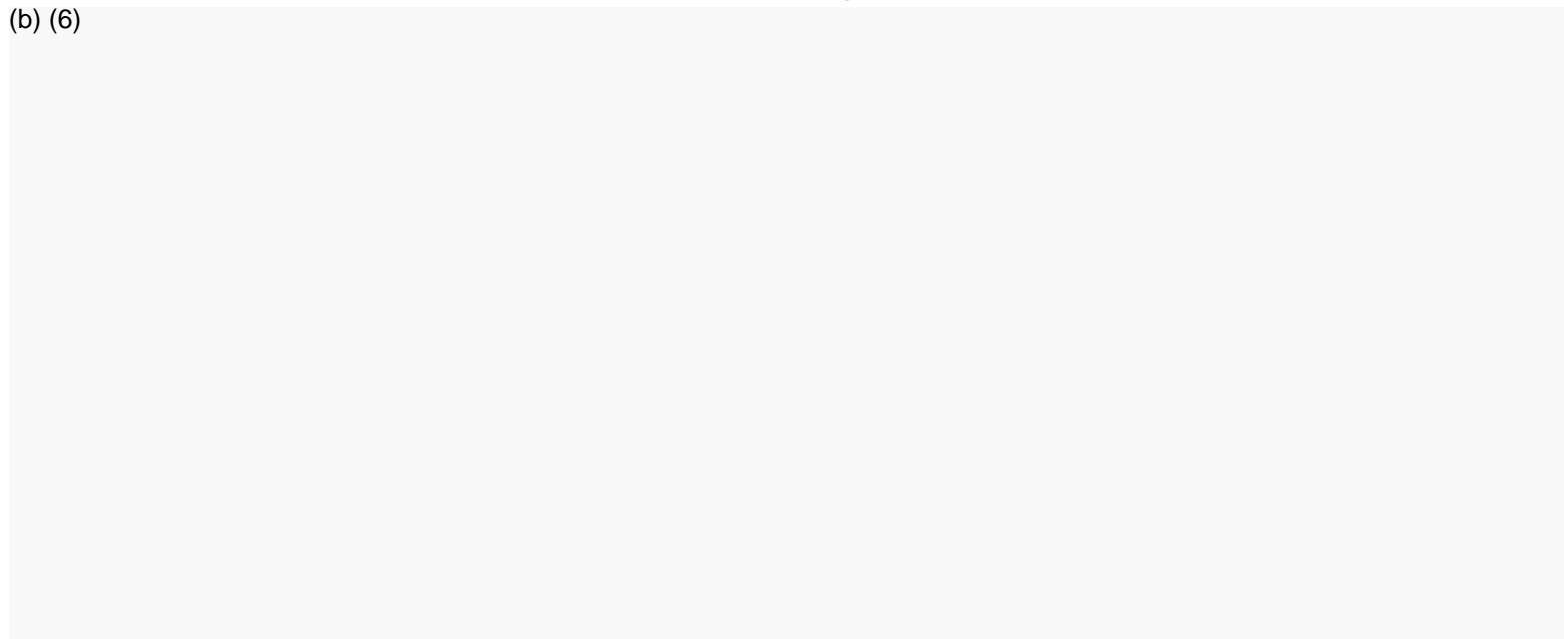
Education & Credentials

(b) (6)



Professional Experience

(b) (6)



(b) (6)



(b) (6)



Professional Affiliations

(b) (6)



From: (b) (6)
To: (b) (6) [DURVAMC](#)
Subject: RE: Interview Session for the Assistant Nurse Manager, Sterile Processing Service at the Durham VA Medical Center - (b) (6)
Date: Wednesday, August 24, 2022 1:45:25 PM

(b) (6)

(b) (6)

(b) (6) [@va.gov](#)

From: (b) (6) DURVAMC (b) (6) [@va.gov](#)>
Sent: Tuesday, August 23, 2022 12:16 PM
To: (b) (6) . (b) (6) [@va.gov](#)>
Cc: (b) (6) DURVAMC (b) (6) [@va.gov](#)>; (b) (6) [@va.gov](#)>
Subject: Interview Session for the Assistant Nurse Manager, Sterile Processing Service at the Durham VA Medical Center - (b) (6)

Good afternoon (b) (6) ,

(b) (6)

Regards, (b) (6)

(b) (6)

Durham VA Health Care System
Durham NC 27705

(b) (6)

(b) (6) [@va.gov](#)

From: (b) (6) [DURVAMC](#)
To: (b) (6)
Cc: (b) (6) [DURVAMC](#)
Subject: RE: Friday, August 26 @ 1030 - Interview Session for the Assistant Nurse Manager, Sterile Processing Service at the Durham VA Medical Center - (b) (6)
Date: Friday, August 26, 2022 9:12:06 AM

Good Morning (b) (6) ;

(b) (6)

Regards, (b) (6)

(b) (6)

Durham VA Health Care System
Durham NC 27705

(b) (6)
(b) (6) @va.gov

From: (b) (6) DURVAMC
Sent: Thursday, August 25, 2022 1:10 PM
To: (b) (6) @gmail.com>; (b) (6) @va.gov>
Cc: (b) (6) @va.gov) (b) (6) @va.gov>
Subject: Friday, August 26 @ 1030 - Interview Session for the Assistant Nurse Manager, Sterile Processing Service at the Durham VA Medical Center - (b) (6)

Good Afternoon (b) (6) ,

(b) (6)

Regards, (b) (6)

From: (b) (6) @gmail.com>
Sent: Tuesday, August 23, 2022 4:13 PM
To: (b) (6) @va.gov>

Subject: [EXTERNAL] Re: Interview Session for the Assistant Nurse Manager, Sterile Processing Service at the Durham VA Medical Center - (b) (6)

(b) (6)

Sincerely

(b) (6)

On Tue, Aug 23, 2022, 12:24 PM (b) (6) DURVAMC (b) (6) <[@va.gov](mailto:(b) (6)@va.gov)> wrote:

Good afternoon (b) (6) ,

(b) (6)

Regards, (b) (6)

(b) (6)

Durham VA Health Care System

Durham NC 27705

(b) (6)

(b) (6) <[@va.gov](mailto:(b) (6)@va.gov)>

From: (b) (6)
To: (b) (6) [.DURVAMC](#); (b) (6) [.DURVAMC](#)
Subject: RE: [EXTERNAL] Review "SPS ANM" is pending for Request (b) (5)
Date: Monday, August 29, 2022 1:32:38 PM
Attachments: [image001.png](#)

Greetings,

(b) (6)

(b) (6)

Durham, NC 27705

(b) (6)

From: (b) (6) @va.gov>

Sent: Monday, August 29, 2022 1:11 PM

To: (b) (6) @va.gov>; (b) (6) DURVAMC

(b) (6) @va.gov>

Cc: (b) (6) @va.gov>

Subject: RE: [EXTERNAL] Review "SPS ANM" is pending for Request (b) (5)

Greetings,

(b) (5)

Respectfully,

(b) (6)

VA Mid-Atlantic Healthcare Network-VISN 6

508 Fulton St.
Durham, NC 27705
Monday-Friday 7:00a.m.-3:30p.m.

(b) (6) [@va.gov](#)



(b) (6)

How was my service today? We value your feedback! Please click the link to complete the [Qualtrics HR Customer Feedback Quick Card](#).

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From: (b) (6) [@va.gov](#)>
Sent: Monday, August 29, 2022 9:50 AM
To: (b) (6) DURVAMC (b) (6) [@va.gov](#)>; (b) (6) DURVAMC (b) (6) [@va.gov](#)>
Subject: FW: [EXTERNAL] Review "SPS ANM" is pending for Request (b) (5)

Good morning,
(b) (5)

[Redacted]

(b) (6)
[Redacted]
Durham, NC 27705
(b) (6)

From: (b) (6) [@opm.gov](#) (b) (6) [@opm.gov](#)>
Sent: Thursday, August 18, 2022 8:11 AM
To: (b) (6) [@va.gov](#)>
Subject: [EXTERNAL] Review "SPS ANM" is pending for Request (b) (5)

(b) (5)
[Redacted]

Due Date: **9/2/2022**

Vacancy Number: **11593771**

Position Information: **Assistant Nurse Manager (SPS), VN-0610-00**

Request Number(s): (b) (5)

(b) (5)

If you have any questions, please contact (b) (6) at (b) (6) [@va.gov](#) or (b) (6)

Note: This is an automated email message. Please do not reply.

USA Staffing® System

Notes



(b) (6)

Hiring Manager User 8/29/2022 9:23 EDT

(b) (5)

[Redacted content]

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Releasing Information on Job Applicants under the Freedom of Information Act (FOIA)

This Fact Sheet addresses releasing information about job applicants under the Freedom of Information Act (FOIA) in two situations:

- (i) before an individual selected for a position has accepted the position, and
- (ii) after an individual selected for a position has accepted the position.

FOIA request submitted prior to an individual accepting a VHA position: Prior to an individual officially accepting a position with VHA, VHA withholds all information on all applicants under FOIA exemption 6, 5 U.S.C. § 552(b)(6), as a clearly unwarranted invasion of the applicants' personal privacy.

FOIA request submitted after a candidate is selected and occupies the position:

1. Unsuccessful applicants: VHA withholds the names of, and all information about, unsuccessful job applicants under FOIA exemption 6. There is one exception to this rule. If the FOIA requester was an unsuccessful job applicant, VHA provides the requester with a copy of the records the requester submitted when applying for the position.

2. Successful applicants: VHA releases information about successful job applicants that shows the qualifications of the applicants for the positions for which they were selected. Examples of information that VHA releases include prior work experience, nature of college degree (e.g., M.D.) and the fact that a health care provider is board certified. However, VHA withholds personal information about successful applicants, such as home address and telephone number, prior non-Federal salaries, and college transcripts under FOIA exemption 6.

Note: VHA should release college transcripts of successful applicants if VHA used information in the transcripts during the selection process.

3. Other individuals mentioned in records about successful applicants: VHA withholds information about other individuals mentioned in documents about successful applicants under exemption 6. Examples of information withheld are the names, titles, and telephone numbers of references and prior non-Federal supervisors; and information about spouses of applicants.