The attached are Primary Source Documents of the Idaho Board of Nursing for:

WENDY ACOSTA
PN-10982

Idaho Board of Nursing – PO Box 83720 – Boise, Idaho 83720-0061 – (208) 334-3110
BEFORE THE IDAHO STATE BOARD OF NURSING

In the Matter of the License of: WENDY JEANNE ACOSTA, License No. PN-10962, Respondent. Case No. BON 00-061

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

Pursuant to the her request for a hearing before the Idaho State Board of Nursing (hereinafter "Board"), Respondent Wendy Jeanne Acosta (hereinafter "Respondent") appeared before the Board during its regularly scheduled meeting at 2:30 p.m., Thursday, February 13, 2003. Respondent appeared without benefit of counsel. The State of Idaho was represented by Cheri Bush, Deputy Attorney General.

Kay C. Manweiler, Deputy Attorney General, acted as Hearing Officer during the proceedings. Members of the Board participating in the hearing were Charles Moseley, RN, CRNA, Daniel Bauer, RN, Shirlie Meyer, RN, Analyn Frasure, LPN, Karen Ellis, RN, Claudeen Buettnner, RN, Judy Hansen, LPN, Dianne Kinney, RN, and Sheri Florence, Consumer Member of the Board. Testifying before the Board were Sandra Evans, MAEd, RN, Executive Director of the Idaho State Board of Nursing, and Vicky Goetsche, MBA, RN, Associate Director of the Idaho State Board of Nursing.

At the conclusion of the hearing, Respondent advised the Board, the Prosecutor, and the Hearing Officer that she had gathered written materials that she had planned to introduce in support of her appeal. According to Respondent, these materials had been placed into her luggage, but that the luggage had been lost on its way from Idaho Falls to Boise. Respondent advised the Board that she had copies of these documents in Idaho Falls and requested permission to have these materials faxed to the Board office by noon on Friday, February 14, 2003 for the Board’s consideration.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER - 1
The Board granted Respondent’s request with the proviso that, if no materials were received prior to the deadline, the matter would be decided based on the testimony and exhibits introduced during the hearing. No materials were faxed to the Board office prior to the noon deadline and no telephone call or other notification was received from the Respondent in that regard. Consequently, the matter was deemed submitted based on the testimony and exhibits introduced during the hearing.

The Board, having reviewed the documents and correspondence contained in the administrative file in this matter, and having heard the testimony of Sandra Evans and Vicky Goettsche, and the testimony of Respondent in her own defense, and good cause appearing therefore, hereby enters the following Findings of Fact, Conclusions of Law, and Final Order:

**FINDINGS OF FACT**

1. Respondent Wendy Jeanne Acosta (“Respondent”) was a duly licensed nurse in the state of Idaho, holding License No. PN-10982.

2. On or about December 8, 2000, the Board received a complaint from the Program for Recovering Nurses (“PRN”) that Respondent was non-compliant with her treatment contract. Respondent initially enrolled in the PRN and signed a contract for monitoring on August 16, 2000. A true and correct copy of that Nurse Contract is attached hereto as **EXHIBIT A**.

3. In order to remain in the PRN program, Respondent was asked to and, on or about March 12, 2001, did voluntarily surrender her nursing license, admitting to violations of the Nursing Practice Act. A true and correct copy of that Voluntary Surrender Form, signed by the Respondent, is attached as Exhibit 1 to the attached **EXHIBIT B**.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER - 2**
4. Respondent was ordered to re-enroll in the PRN program by May 2, 2001 in order to maintain her licensure. She failed to re-enroll as directed and subsequently, on May 24, 2001, the Board entered its Findings of Fact, Conclusions of Law, and Final Order revoking Respondent’s license numbered PN-10982.

5. Respondent applied for reinstatement of her license on or about April 22, 2002. A true and correct copy of her application and supporting materials is attached hereto as EXHIBIT C.

6. On or about June 18, 2002, Respondent was issued a limited license. Respondent executed an Acknowledgment of Limited License and Monitoring Conditions, agreeing to comply with the requirements set forth in the document and further agreeing that any failure to comply with the requirements would constitute ground for withdrawal of the limited license, without prior notice or hearing. True and correct copies of the Limited License and the Acknowledgement of Limited License and Monitoring Conditions are attached hereto as EXHIBIT D.

7. Despite personal counseling including a face-to-face meeting with Vicky Goettsche in September, 2002 that took place in Idaho Falls, Idaho, and written contacts from the Board staff in the time frame between June 18, 2002 and November 5, 2002, Respondent received a positive UA screen and, in addition, failed to provide timely reports as required by the terms and conditions of her limited license. Attached as EXHIBIT E are true and correct copies of various file documents documenting the positive UA, other file materials, and the Board’s letters of August 27 and September 18, 2002, notifying Respondent of the specific reports that were missing from her file.

8. On November 5, 2002, Respondent was notified of the withdrawal of her limited license. This withdrawal was based on Respondent’s failure to comply with the
Acknowledgment of Limited License and Monitoring Conditions agreement that she executed on June 19, 2002. A true and correct copy of the Notice of Withdrawal of Limited License is attached hereto as EXHIBIT F. Respondent was also advised that, in order to appeal the withdrawal, she was required to notify the board in writing of her request for a hearing within twenty-one days of her receipt of the notice. Respondent did not provide the required written notice, although she did telephone the office and orally request a hearing.

CONCLUSIONS OF LAW

1. The facts as stated above fall within the regulatory jurisdiction of the Idaho State Board of Nursing as set forth in title 54, chapter 14, Idaho Code.

2. Failure to comply with the conditions of the Acknowledgment of Limited License and Monitoring Conditions of June 19, 2002, constitutes grounds for the withdrawal of limited license.

3. The facts as stated in paragraphs 5 through 7, constitute violations of the Acknowledgment of Limited License and Monitoring Conditions of June 18, 2002, and, as such, constitute grounds for the withdrawal of her limited license.

ORDER

NOW, THEREFORE, it is hereby ordered that the Executive Director's November 5, 2002 Withdrawal of Limited License PN-10982, is hereby AFFIRMED.

The Board FURTHER ORDERS that Respondent's request for reinstatement of License No. PN-10982 be, and the same is, hereby DENIED.

NOTICE OF APPEAL RIGHTS

This is a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this
order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See § 67-5246(4), Idaho Code.

Pursuant to §§ 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

i. A hearing was held,

ii. The final agency action was taken,

iii. The party seeking review of the order resides or operates its principal place of business in Idaho, or

iv. The real property or personal property that was the subject of the agency action is located.

An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See § 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

DATED this 25th day of February, 2003.

IDAHO STATE BOARD OF NURSING

By: [Signature]

CHARLES MOSELEY, RN, CRNA,
Board President

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER - 5
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of February 2003, I caused to be served a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER, addressed as follows:

Cheri Bush
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Hand Delivery
Overnight Mail
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Hand Delivery
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Facsimile: __________________________
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Sandra Evans, M.A.Ed., R.N.
Executive Director
Board of Nursing