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

Judy Burke

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: JUDY BURKE,
License No. PN-8881,
Respondent. Case No. BON 09-056

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

Having reviewed the documents appended hereto, the Idaho State Board of Nursing (the "Board") enters the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Judy Burke ("Respondent") has been licensed by the Idaho State Board of Nursing under License No. PN-8881 to engage in the practice of nursing in the State of Idaho.

2. On or about August 12, 2009, the Board received a Report of Violation of the Nurse Practice Act from Respondent's employer, Intermountain Hospital. The report indicated that on August 2, 2009, Respondent arrived to work while intoxicated and Respondent's breathalyzer results showed a level of approximately 0.20.

3. On August 25, 2009, Respondent voluntarily surrendered her license, further admitting that she reported to work while under the influence of alcohol and tested positive for the presence of alcohol in her system. Respondent agreed to enter treatment immediately and to participate in the Program for Recovering Nurses (PRN), a monitoring program, and to resume the practice of nursing only at such time as a conditional limited license was issued to her. A true and correct copy of Respondent's Voluntary Surrender of License is attached hereto as Exhibit A.

4. On or about October 19, 2009, the PRN notified the Board that Respondent failed to enroll in PRN. PRN sent an enrollment packet to Respondent on September 22, 2009, and was given a deadline to return the required documentation by October 7, 2009.

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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER - 1
A true and correct copy of the October 19, 2009, letter from PRN to the Board is attached hereto as Exhibit B.

5. On October 20, 2009, Board staff sent Respondent a letter allowing her until October 28, 2009, to submit the enrollment paperwork to PRN. A true and correct copy of the October 20, 2009, letter from Board staff to Respondent is attached hereto as Exhibit C.

6. On December 2, 2009, the PRN notified the Board that Respondent failed to return the required enrollment paperwork by October 28, 2009. The PRN referred this matter to the Board for disciplinary action. A true and correct copy of the December 2, 2009, letter from the PRN to the Board is attached hereto as Exhibit D.

CONCLUSIONS OF LAW

1. As a licensed nurse in the State of Idaho, Respondent is subject to the jurisdiction of the Board and to the provisions of title 54, chapter 14, Idaho Code.

2. Respondent’s Idaho License No. PN-8881 is conditioned upon her complying with the laws and rules of the Idaho State Board of Nursing.

3. Respondent reported to work while under the influence of alcohol and tested positive for the presence of alcohol in her system.

4. Respondent voluntarily surrendered her license and agreed to enroll in and comply with the terms of the PRN. She has failed to enroll in the PRN.

5. Respondent’s acts as set forth above constitute violations of the laws and rules governing the practice of nursing in the State of Idaho; specifically:
   a. Idaho Code § 54-1413(1)(e) and Board Rule (IDAPA 23.01.01) 100.06 (a nurse shall not habitually use alcoholic beverages or drugs);
   b. Idaho Code § 54-1413(1)(g) and Board Rule 100.08 (a nurse shall not violate the Board’s laws, rules or standards of conduct and practice); and

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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER - 2
c. Board Rule 101.03(e) (a nurse shall not practice nursing while the ability to practice is impaired by alcohol or drugs or physical, mental or emotional disability).

7. Pursuant to Idaho Code § 54-1413(3)(a), Respondent’s voluntary surrender of her license empowers the Board, without a hearing, to revoke or suspend Respondent’s license and/or impose such conditions, limitations, or restrictions on her license as the Board in its discretion may deem appropriate.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause being shown, it is hereby ordered that:

1. License No. PN-8881 issued to Judy Burke is hereby:

   ☒ Revoked: Respondent may not apply for reinstatement for a two (2) year period after entry of this Order or a ______ year period after entry of this Order, whichever period is greater.

   ____ Suspended: _____ days _____ year(s) _____ indefinitely. Respondent’s license shall be a single-state license during the term of suspension and Respondent shall not be eligible to practice on the Compact privilege in any other state participating in the Nurse Licensure Compact with the State of Idaho.

2. At such time as Respondent requests reinstatement of licensure, she shall comply with the requirements of Idaho Code § 54-1411(3) and IDAPA 23.01.01.120, if Respondent’s license is revoked, or IDAPA 23.01.01.61.04, if Respondent’s license is suspended. This will include, but is not limited to, providing the following information to the Board:

   a. Evidence of abstinence from the use of non-medically prescribed drugs and alcohol;

   b. Documentation that she is rehabilitated and competent to practice nursing by submitting:

      i. A comprehensive drug/alcohol evaluation completed by a
Board-approved health care provider at the time of application for reinstatement.

ii. A detailed summary of employment since licensure revocation or suspension; and

iii. Documentation of activities engaged in to address drug/alcohol issues, to include documentation of an active recovery program.

3. The Board reserves the right to hold additional hearings should Respondent seek reinstatement of her license.

4. The Board reserves the right to assess investigative costs and attorney fees incurred in this matter as a condition of reinstatement.

This order is effective immediately.

DATED this 24th day of January, 2010.

IDAHO STATE BOARD OF NURSING

By

Susan Odom, Ph.D., R.N.
Chair

NOTICE OF DUE PROCESS RIGHTS

This is a final order of the Board. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the issuance of this order. The Board 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 Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, 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:

a. A hearing was held,

b. The final agency action was taken,

c. The party seeking review of the order resides, or

d. 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 issuance 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 Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29 day of January, 2010, I caused to be served a true and correct copy of the foregoing by the following method to:

Judy Burke
378 Centerville Road
Centerville, ID 83631

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile: ________________________
- Statehouse Mail

Karin Magnelli
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile: ________________________
- Statehouse Mail

Sandra Evans, M.A.Ed., R.N.
Executive Director
Board of Nursing
RULE 132
TEMPORARY VOLUNTARY SURRENDER OF LICENSE

I, ________________ by affixing my signature hereto, acknowledge that:

1. I admit that I have engaged in the following conduct: _reported_ to work for a nursing assignment while under the influence of alcohol and test positive for the presence of alcohol.

2. I understand that the admitted facts constitute grounds for disciplinary action pursuant to the Nursing Practice Act, Idaho Code, §54-1413 (1) and the rules of the Board, IDAPA 23.01.01, et seq. I also understand that the Board of Nursing has the authority to accept this voluntary surrender pursuant to Idaho Code §54-1404(2).

3. I am aware that, without my consent, no legal action can be taken against me, except pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code.

4. I understand that I have the following rights, among others: the right to a formal fact finding hearing before the Board, to reasonable notice of said hearing, to representation by counsel, to present evidence and testimony on my behalf, to compel the testimony of witnesses, and to cross-examine witnesses against me; and

5. I waive all such rights, including the right to a formal disciplinary hearing.

6. I also waive the right to challenge the Board for bias in the event that charges concerning these admitted facts or any other matter involving my license are brought before the Board.

7. In lieu of a formal disciplinary hearing, I voluntarily surrender my license on a temporary basis. Attached is my license, number PN-8881; I agree to immediately discontinue the practice of nursing in Idaho.

8. I will enter treatment as required by the Board, and fully participate in the Program for Recovering Nurses (PRN) monitoring program. I will resume the practice of nursing only at such time as a conditional limited license has been issued to me. If I do not fully participate in and cooperate with the PRN, the Board may enter an order revoking or otherwise disciplining my license, including any conditional license that may have been issued, without further notice or hearing or other process given to me.

9. I understand that Board of Nursing representatives will, if questioned, report the status of my license as "surrendered".

DATED 8-25-09

Signature of Licensee

3780 Centerville Rd

Address

City, State, Zip

Signature of Witness

DATED 8-25-09

Revised 1008 - PRN
State of Idaho
Board of Nursing

This is to certify that:

JUDY BURKE
378 CENTERVILLE RD
CENTERVILLE, ID 83631

has complied with the requirements of the law and is entitled
to practice as a LICENSED PRACTICAL NURSE (LPN).

Expires: August 31, 2010

2008-2010
License Number
PN-8881

Valid when signed by licensee.

1/15/2009
October 19, 2009

Idaho State Board of Nursing
ATTN: Sandra Evans
P.O. Box 83720
Boise, ID 83720-0061

RE: Judy Burke

Dear Ms. Evans,

This letter is being sent to notify you that Ms. Judy Burke, a Board of Nursing referral, has failed to enroll in, and return, her Program for Recovering Nurses (PRN) Contract. Ms. Burke was sent her enrollment packet on September 22, 2009 and given a deadline of October 7, 2009 to return all related documentation for enrollment in the program and begin monitoring.

We look forward to receiving further guidance from the Board of Nursing regarding this issue. If you have any questions or concerns, please feel free to contact me at (208) 323-9555.

Sincerely,

[Signature]
Steven R. Hurst
Compliance Monitor
Southworth Associates

cc: Judy Burke
Judy Burke
378 Centerville Rd.
Centerville, ID 83631

Dear Ms. Burke:

On August 25, 2009, you were sent information regarding the Board’s Program for Recovering Nurses (PRN). You had indicated that you were interested in surrendering your license and enrolling in the Program. Your licensure certificate was surrendered on August 25, 2009, and you were instructed to contact the PRN program regarding enrollment within seven (7) days.

We have been notified by the Compliance Monitor for PRN, that you have failed to return the signed contract by the required date of October 7, 2009. No later than October 28, 2009, you must return your signed contract to your Compliance Monitor. Failure to return your signed contract will result in your file being referred to the Board of Nursing for possible disciplinary action against your license.

Please contact me if you have questions regarding this information.

Sincerely,

SANDRA EVANS, MAEd, RN
Executive Director

SE:lhc
cc: Southworth Associates
December 2, 2009

Idaho State Board of Nursing
ATTN: Sandra Evans
P.O. Box 83720
Boise, ID 83720-0061

RE: Judy Burke

Dear Ms. Evans,

This letter is being sent to notify you that Ms. Judy Burke, a Board of Nursing referral, has failed to enroll in, and return, her Program for Recovering Nurses (PRN) contract. Ms. Burke was sent her enrollment packet on September 22, 2009 and given a deadline of October 7, 2009 to return all related documentation for enrollment in the program and begin monitoring. On October 19, 2009 this office notified the Idaho Board of Nursing of the above situation. The Board then issued Ms. Burke a letter (via Certified Mail) requesting that she return her signed contract to the PRN “[N]ot later than OCTOBER 28, 2009.” As of this date, this office has not received the above mentioned documents.

We look forward to receiving further guidance from the Board of Nursing regarding this issue. If you have any questions or concerns, please feel free to contact me at (208) 323-9555.

Sincerely,

[Signature]

Steven R. Hurst
Compliance Monitor
Southworth Associates

The Program for Recovering Nurses: Protecting the public safety, health and welfare by assisting nurses in their recovery and return to safe practice.
Judy Burke  
378 Centerville Road  
Centerville ID  83631 

Dear Ms. Burke:  

During their meeting on January 28-29, 2010, the Board of Nursing members took action to accept the Findings of Fact, Conclusions of Law and Final Order in which your practical nurse license, PN-8881 was revoked. During the period of revocation, you may not practice nursing in the State of Idaho. Enclosed is a copy of the Final Order.  

The Order became effective January 29, 2010. Please be advised that you may not apply for reinstatement for a period of two (2) years from the date of this order.  

Sincerely,  

[Signature]

SANDRA EVANS, MAEd, RN  
Executive Director  

SE:lhc  
enclosure
Document Unclaimed
Returned 2/04/10