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

DENISE DALLOLIO
PN-11975
BEFORE THE IDAHO STATE BOARD OF NURSING

In the Matter of the License of:

DENISE KAY DALLOLIO
License No. PN-11975,

Respondent.

Case No. BON 04-069

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER

A disciplinary complaint was filed against Respondent Denise Kay Dallolio (hereinafter "Respondent") July 23, 2004. Subsequently, in correspondence dated August 13, 2004, Respondent requested a hearing to contest the allegations contained in the complaint. On November 11, 2004, Respondent appeared and testified before the Idaho Board of Nursing (hereinafter "Board") during its regularly scheduled meeting. Board Chairman Randall Hudspeth, RN, NP, CNS, presided. Board members Daniel Bauer, RN, Karen Ellis, RN, Analyn Frasure, LPN, Jill Howell, RN, Shirlie Meyer, RN, Susan Odom, PhD, RN, and Ridon Clemm, LPN, participated in the hearing. Consumer member of the Board, Sheri Florence, participated.

Having listened to the testimony and reviewed the complaint and other documents filed in this matter, the Board enters the following Findings of Fact, Conclusions of Law, and Final Order.

FINDINGS OF FACT

1. Respondent herein is licensed to engage in the practice of nursing by the Idaho State Board of Nursing. Respondent holds nursing license number PN-11975.

2. On June 7, 2004, in a conversation with Board investigative staff, Respondent admitted she had injected her daughter with Phenergan that had not been prescribed for the girl.
3. Respondent also admitted that the Phenergan had been prescribed for an individual who had AIDS whom Respondent was helping to care for.

4. Respondent admitted self-administering Tordal, prescribed for her pleurisy, to relieve her migraines.

5. June 14, 2004, Respondent was charged with the criminal offense of felony injury to a child in Minidoka County, Idaho.

CONCLUSIONS OF LAW

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

2. The Board has power to revoke, suspend, or amend any license issued pursuant to the act if the licensee has engaged in behavior that constitutes grounds for discipline. Idaho Code § 54-1413(1) and IDAPA 23.01.01.100.08 and 23.01.01.101.01.

3. Violating the Nursing Practice Act or rules and standards of practice and conduct as adopted by the Board is behavior that constitutes grounds for discipline. Idaho Code § 54-1413 (1)(g).

4. Endangering patients or the public is a violation of the standards of conduct and as such is grounds for imposition of an order of discipline. IDAPA 23.01.01.100.09.

5. Obtaining, possessing, furnishing, or administering prescription drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs is a violation of the standards of conduct and as such is grounds for imposition of an order of discipline. IDAPA 23.01.01.101.04.e.
6. Respondent's acts as set forth above and her failure to act in accord with the standards of practice and conduct and adhere to the laws and rules governing her continued practice of nursing constitute violations of Idaho Code § 54-1413(1)(g) and IDAPA 23.01.01.101.01, 23.01.01.100.09, and 23.01.01.101.04.e, thereby authorizing the Board to impose sanctions against Respondent pursuant to Idaho Code §§ 54-1413(3)(a) and 67-5242(4).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause being shown, IT IS HEREBY ORDERED and this does ORDER that Respondent's license to practice nursing, number PN-11975, be and is hereby REVOKED.

DATED this 22nd day of December 2004.

IDAHO STATE BOARD OF NURSING

By: \[Signature\]

RANDALL HUDSPETH, NP, CNS,
Chairman

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 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:

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 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 30TH day of December 2004, I caused to be served a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER, via certified U.S. Mail, postage prepaid, return receipt requested, and addressed to:

Cheri L. Bush
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

U.S. Mail, postage prepaid

Certified U.S. Mail, return receipt

Hand Delivery

Overnight Mail

Facsimile:____________________

X Statehouse Mail

Denise K. Dallolio
546 West 200 North
Paul, ID 83347

X U.S. Mail, postage prepaid

X Certified U.S. Mail, return receipt

Hand Delivery

Overnight Mail

Facsimile:____________________

Statehouse Mail

Kay Christensen
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

U.S. Mail, postage prepaid

Certified U.S. Mail, return receipt

Hand Delivery

Overnight Mail

Facsimile:____________________

X Statehouse Mail

SANDRA EVANS, M.A.Ed., R.N.
Executive Director
Board of Nursing
COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) Shape Dallolio
B. Date of Delivery 1-5-04
C. Signature
X Shape Dallolio
D. Is delivery address different from item 1? □ Yes
□ No
If YES, enter delivery address below:

3. Service Type
□ Certified Mail □ Express Mail
□ Registered □ Return Receipt for Merchandise
□ Insured Mail □ C.O.D.

4. Restricted Delivery? (Extra Fee) □ Yes

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)

DENISE K DALLOLIO
546 WEST 200 NORTH
PAUL ID 83347

PS Form 3811, July 1999 Domestic Return Receipt

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PS Form 3800, May 2000

See Reverse for Instructions
BEFORE THE IDAHO STATE BOARD OF NURSING

In the Matter of the License of:

DENISE DALLOLIO,
License No. PN-11975,
Respondent.

Case No. 04-069

COMPLAINT

TO: Denise Kay Dallolio
546 W. 200 N.
Paul, ID 83347

STATEMENT OF CHARGES

1.

The Idaho State Board of Nursing (hereinafter the “Board”) is empowered by Idaho Code § 54-1404 to regulate the practice of nursing in the State of Idaho.

2.

Denise Kay Dallolio (hereinafter “Respondent”) is licensed to engage in the practice of nursing by the Idaho State Board of Nursing under License No. PN-11975.

3.

On May 18, 2004, the Board was advised by St. Luke’s Regional Medical Center Pediatric Unit in Boise that Respondent, who is the mother of a patient, appeared to be impaired. About ten days later, the Board was advised by St. Luke’s that Respondent was requesting syringes so she could inject Phenergan. The facility suspected Respondent may be injecting her daughter with the drug.

4.

On May 20, 2004, the Board learned Respondent had admitted to her employer, Cassia Memorial Hospital, that she had been injecting her daughter with Phenergan without a doctor’s order allowing her to do so.
5.

On June 7, 2004, Respondent was contacted by the Board’s investigative staff. Respondent admitted she had injected her daughter with Phenergan she had “on hand” from caring for a friend who had AIDS. Respondent explained to Board staff she had asked for syringes while her daughter was at St. Luke’s because she had a migraine and wanted to medicate herself with Tordal prescribed for pleurisy.

6.

On June 10, 2004, the Board received a fax from Cassia Regional Medical Center documenting Respondent had admitted to injecting her daughter with a drug that had not been prescribed and that the same was in her possession for her migraine headaches. Respondent acknowledged to her employer her actions were outside her scope of practice.

7.

On June 15, 2004, Board staff received a copy of a criminal complaint that had been filed against Respondent by the Cassia County Prosecutor’s Office for one count of felony injury to a child.

8.

On July 14, 2004, the Board’s staff was advised Respondent was in an in-patient drug treatment program and the criminal complaint was on hold until she had completed said program.

9.

Respondent’s conduct as set forth above if proven constitutes grounds for discipline as follows:

COMPLAINT - 2
a. For violations of Idaho Code § 54-1413 (1)(c) and IDAPA 23.01.01.100.06—Habitually uses alcoholic beverages or narcotic, hypnotic or hallucinogenic drugs;

b. For violations of Idaho Code § 54-1413 (1)(g) and IDAPA 23.01.01.100.08 and 23.01.01.101.01—Violates the law, or rules and standards of conduct and practice as may be adopted by the Board;

c. For violations of Idaho Code § 54-1413 (1)(h) and IDAPA 23.01.01.100.09—Conduct to deceive, defraud or endanger patients or the public;

d. For violations of IDAPA 23.01.01.101.04.a—The nurse shall have knowledge of the statutes and rules governing nursing and shall function within the defined legal scope of nursing practice. The nurse shall not assume any duty or responsibility within the practice of nursing without adequate training or where competency has not been maintained;

e. For violations of IDAPA 23.01.01.101.04.e—The nurse shall not obtain, possess, furnish or administer prescription drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs;

f. For violations of IDAPA 23.01.01.101.05.c—The nurse shall be responsible and accountable for his nursing judgments, actions and competence; and,

g. For violations of IDAPA 23.01.01.101.05.e—The nurse shall make or keep accurate, intelligible entries into records required by law, employment or customary practice of nursing, and shall not falsify, destroy, alter or knowingly make incorrect or unintelligible entries into patients’ records or employer or employee records.

10.

Pursuant to Idaho Code § 54-1413, the Board is authorized to enter an order suspending, revoking or otherwise disciplining Respondent’s license for Respondent’s violations of Idaho Code and the Board’s duly promulgated rules, as set forth above.

WHEREFORE, the Idaho State Board of Nursing prays for the following action:

COMPLAINT - 3
1. That a hearing commence at a designated time to allow evidence on the allegations contained in the Complaint to be presented before the Board or the Board’s designated hearing officer;

2. That subsequent to taking evidence, the waiver of a hearing, or the failure of the Respondent to file an Answer to this administrative Complaint, that the Board, or its designated hearing officer, shall issue findings of fact and conclusions of law finding the violations of law alleged herein and the Board shall determine whether the license of Respondent Denise Kay Dallolio should be suspended, revoked or otherwise disciplined pursuant to the statutory and regulatory authority of the Board of Nursing; and

3. For such other and further relief as the Board deems just and proper in the circumstances.

DATED this 23rd day of July, 2004

IDAHO STATE BOARD OF NURSING

By Sandra Evans, M.A. Ed., R.N.
Executive Director

NOTIFICATION OF PROCEDURAL RIGHTS

Pursuant to the provisions of the Administrative Procedure Act codified at title 67, chapter 52, Idaho Code, and the Idaho Rules of the Administrative Procedure of the Attorney General, promulgated at IDAPA 04.11.01, if you wish to contest the charges set forth in this Complaint, you must: (1) file with the Idaho State Board of Nursing a verified Answer to the allegations contained herein within twenty-one (21) days after you are served with this Complaint and (2) request an evidentiary hearing on the charges. You are further notified that if you fail to answer and/or request a hearing the Board may enter a default against you and be granted the relief sought in this Complaint. Upon receipt of your Answer and request for hearing, the matter will be reviewed and a hearing scheduled. You will then be notified of the date, time and place of the hearing, the name
of the hearing officer appointed by the Board (if any) and further notification of your procedural rights and responsibilities if you fail to appear or otherwise defend at the hearing default will be entered against you.

You also have the right to be represented by legal counsel, at your own expense, during this administrative proceeding.

Copies of the Administrative Procedure Act and the Idaho Rules of the Administrative Procedure of the Attorney General may be obtained at the Idaho State Law Library.

All original official documents must be filed with the Board at the following address:

Idaho State Board of Nursing
280 N. Eighth Street, Suite 210
P.O. Box 83720
Boise, ID 83720-0061
telephone: (208) 334-3110
facsimile: (208) 334-3262

A copy of the Answer and every pleading, motion or subsequent document filed with the Board must also be served upon legal counsel for the Board at the following address:

Cheri L. Bush
Deputy Attorney General
Civil Litigation Division
P.O. Box 83720
Boise, ID 83720-0010
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of July, 2004, I caused to be served a true and correct copy of the foregoing COMPLAINT addressed as follows:

Cheri L. Bush
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

___ U.S. Mail, postage prepaid
___ Certified U.S. Mail, return receipt
___ Hand Delivery
___ Overnight Mail
___ Facsimile:
X Statehouse Mail

Denise Kay Dallolio
546 W. 200 N.
Paul, ID 83347

X U.S. Mail, postage prepaid
X Certified U.S. Mail, return receipt
___ Hand Delivery
___ Overnight Mail
___ Facsimile:
___ Statehouse Mail

Sandra Evans, M.A.Ed., R.N.
Executive Director
Board of Nursing
DENISE DALLOLIO
546 WEST 200 NORTH
PAUL ID 83347
MINIDOKA COUNTY PROSECUTING ATTORNEY
STATE OF IDAHO
JASON D. WALKER, Prosecuting Attorney (ISS#5790)
ALAN GOODMAN, Deputy Prosecuting Attorney (ISS#2778)
NICOLE L. CANNON, Deputy Prosecuting Attorney (ISS#5502)
715 G. Street, P. O. Box 368
Rupert, ID 83350
Office: (208) 436-7187
Facsimile: (208) 436-3966

ATTORNEYS FOR STATE OF IDAHO

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA

MAGISTRATE COURT

STATE OF IDAHO,  

Plaintiff,

vs.

DENISE DALLOLIO,  

Defendant.

) Case No. CR-04-1438

AMENDED
CRIMINAL COMPLAINT

Personally appeared before me this 14 day of June, 2004,
Jerry Ballance, of the Minidoka County Sheriff's Department, in the County of
Minidoka, State of Idaho, who, being first duly sworn, complains of Denise Dallas,
and charges her with the public offense of:

CRIMINAL COMPLAINT - 1
FELONY INJURY TO CHILD

Felony
Idaho Code Section 18-1501(1)

That the said defendant, Denise Dallolio, on or about or between 12 day of May, 2004, and the 14th day of May, 2004, committed the public offense of FELONY INJURY TO CHILD, in violation of Idaho Code Section 18-1501(1), by willfully, intentionally, unlawfully, and feloniously did under circumstances likely to produce great bodily harm or death, commit an injury upon a child under eighteen (18) years of age, to-wit: Tyra R. Henschied, of the age of ten (10) years old, by willfully causing or permitting the person or health of the child to be injured, while having care and/or custody of the child, by giving intravenous injections of Phenergen and/or other drugs which had not been prescribed for Tyra R. Henschied and said injections are contra-indicated in young children which may result in heart problems, coma, or death.

All of which is contrary to the form of the statute in said state made and provided and against the peace and dignity of the State of Idaho.

Joe Ballance
Subscribed and sworn to before me this 14th day of June, 2004.

Magistrate Judge