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

Marilyn Elaimy

Idaho Board of Nursing – PO Box 83720 – Boise, Idaho 83720-0061 – (208) 334-3110
Dear Ms. Elaimy:

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to accept the Findings of Fact, Conclusions of Law and Final Order in which your professional nurse license, N-14488 was revoked.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,

SANDRA EVANS, MAEd, RN
Executive Director

SE:lhce
enclosure

*The Mission of the Board of Nursing is to regulate nursing practice and education for the purpose of safeguarding the public health, safety and welfare.*
BEFORE THE IDAHO STATE BOARD OF NURSING

In the Matter of the License of:  
MARILYN O. ELAIMY,  
License No. N-14488,  
Respondent.  

Case No. BON 08-007  
FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
FINAL ORDER

Having reviewed the Complaint and other documents filed in this matter, the Idaho State Board of Nursing (hereinafter the "Board") enters the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Marilyn O. Elaimy ("Respondent") is licensed by the Idaho State Board of Nursing under License No. N-14488 to engage in the practice of nursing in the State of Idaho. Respondent's license was issued on September 18, 1980, which license expired on August 31, 2009, and Respondent has not renewed her license. Respondent's license and renewal rights are subject to the provisions of title 54, chapter 14, Idaho Code and the Board's rules at IDAPA 23.01.01, et seq.

2. On or about October 27, 2008, Respondent entered into an Agreement with Board staff after a Report of Violation of the Nursing Practice Act was received by the Board on or about January 22, 2008.

3. Pursuant to the Agreement, Respondent received an Official Censure based upon conduct that could have been interpreted by the patient, his family and other staff as an imbalance of power in the professional relationship. Respondent agreed to complete the following on-line National Council of State Boards of Nursing (NCSBN) courses:
   a. Sharpening Critical Thinking Skills, and
   b. Professional Accountability & Legal Liability for Nurses.

4. On November 19, 2009, the Board filed a formal Complaint against Respondent. Said Complaint is expressly incorporated herein and made a part hereof.
5. Copies of the Complaint, along with the Notification of Procedural Rights, were sent to Respondent on November 19, 2009, by United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail. The mailings were addressed to Respondent at her most recent home address on file with the Board, as follows:

Marilyn O. Elaimy
1120 N. Idaho Street
Post Falls, ID 83854

6. The Board received back from the post office the envelope containing a copy of the Complaint which was sent to Respondent by certified mail with the notation, "unclaimed". The Board did not receive back from the post office the envelope containing a copy of the Complaint which was sent to Respondent by regular mail.

7. The Notification of Procedural Rights informed Respondent that, under statutes and rules applicable to such proceedings before the Board, Respondent needed to file a formal Answer to the Complaint within twenty-one (21) days of service of the Complaint and that failure to timely file an Answer to the Complaint or otherwise defend against the action would constitute a default and would be sufficient grounds for proceeding administratively against Respondent's license without the necessity of conducting a hearing.

8. On December 22, 2009, a Notice of Proposed Default Order and Default Order were sent to Respondent by United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail, to Respondent at her address of record with the Board as follows:

Marilyn O. Elaimy
1120 N. Idaho Street
Post Falls, ID 83854

9. Respondent failed to contest entry of the proposed Default Order within seven (7) days of service of the Notice of Proposed Default Order.

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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER - 2
10. On January 5, 2010, a Default Order was issued by Roger Gabel, the appointed Hearing Officer in this matter. Therefore, the allegations contained in the Complaint on file in this matter are admitted as true without the necessity of conducting a hearing.

11. As detailed in the incorporated Complaint, Respondent, while a licensed nurse, failed to comply with the terms of the Agreement by not completing the two NCSBN courses.

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. The Complaint was sent to Respondent at the address on file with the Board. Respondent was duly and lawfully given notice of proceedings against her license pursuant to the provisions of IDAPA 04.11.01.055 and IDAPA 23.01.01.008.03.

3. Respondent’s failure to plead or otherwise defend in this action authorizes the Board, pursuant to Idaho Code § 67-5242(4), to enter a Default Order which is as lawful as if all the allegations in the Complaint were proved or admitted at a hearing.

4. Respondent’s acts as detailed in the incorporated Complaint constitute violations of the laws and rules governing Idaho nursing practice, specifically Idaho Code § 54-1413(1)(j) (failure to comply with the terms of any board order, negotiated settlement or probationary agreement of the board).

5. Pursuant to Idaho Code §§ 54-1404(2), 54-1413(1) and 67-5242(4), the Board is authorized to impose sanctions against Respondent.

ORDER

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

1. Pursuant to Idaho Code § 67-5242(4), Respondent is in default.

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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER - 3
2. License No. N-14488 issued to Marilyn O. Elaimy is hereby:

   X 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.

3. Any application for reinstatement of licensure by Respondent shall be subject to the provisions 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. A detailed summary of employment since licensure revocation or suspension;

   b. Documentation that Respondent successfully completed the following on-line National Council of State Boards of Nursing (NCSBN) courses:

      i. Sharpening Critical Thinking Skills, and

      ii. Professional Accountability & Legal Liability for Nurses; and

   c. Documentation that Respondent is able to practice safely and competently.

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.

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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER - 4
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:

Marilyn O. Elaimy
1120 N. Idaho Street
Post Falls, ID 83854

☐ U.S. Mail
☐ Hand Delivery
☒ Certified Mail, Return Receipt Requested
☐ Overnight Mail

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

☐ U.S. Mail
☐ Hand Delivery
☐ Facsimile:
☒ Statehouse Mail

Sandra Evans, M.A.Ed., R.N.
Executive Director
Board of Nursing
Document unclaimed

Return 3-3-10