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

TRACI HARTLEY
N-29598

Idaho Board of Nursing – PO Box 83720 – Boise, Idaho 83720-0061 – (208) 334-3110
Traci Jean Hartley, Inmate No. 97903  
SBWCC Unit 2  
13200 S Pleasant Valley Road  
Kuna, ID 83634

Dear Ms. Hartley:

During their meeting on April 14-15, 2011, 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-29598 was indefinitely suspended. During the period of suspension, you may not practice nursing in the State of Idaho. Enclosed is a copy of the Final Order.

The Order became effective April 14, 2011. Please be advised that you may not apply for reinstatement for a period of two (2) years from the date of this order. However, if the appeal to the Idaho Supreme Court results in the reversal of your conviction, you shall be eligible to immediately apply for reinstatement.

Sincerely,

[Signature]

SANDRA EVANS, MAEd, RN  
Executive Director

SE:the enclosure
BEFORE THE IDAHO STATE BOARD OF NURSING

In the Matter of the License of: )
TRACI JEAN HARTLEY, )
License No. N-29598, )
Respondent. )
) Case No. BON 10-095
) FINDINGS OF FACT,
) CONCLUSIONS OF LAW AND
) FINAL ORDER

Having reviewed the documents and correspondence contained in the administrative file in this matter, the Idaho State Board of Nursing (the “Board”) hereby enters the following Findings of Fact, Conclusions of Law, and Final Order:

FINDINGS OF FACT

1. The Board regulates Idaho nursing practice pursuant to title 54, chapter 14, Idaho Code.

2. Traci Jean Hartley (“Respondent”) has been licensed by the Board, under License No. N-29598, to engage in the practice of nursing in the state of Idaho.

3. On November 29, 2010, the Board was notified that Respondent may have felony convictions for possession of a controlled substance.

4. On or about November 30, 2010, the Board submitted a Request for Prescription Information to the Idaho State Board of Pharmacy. The information provided showed Respondent had used nine (9) different providers over the past two (2) years for personal controlled substance prescriptions.

5. On December 8, 2010, the Board initiated an investigation concerning the allegations of Respondent’s felony conviction(s). The Board mailed a letter of concern to Respondent via certified mail requesting that Respondent contact the Board to discuss the
allegations against her. The letter was returned to the Board by the post office on or about January 15, 2011, and was marked “return to sender – unclaimed – unable to forward”.

6. The Board’s investigation in this matter revealed that Respondent’s prior criminal convictions include, but are not limited to, the following:

a. On November 17, 2009, Respondent pled guilty to one (1) count of drinking or possessing an open beverage containing alcohol while in a motor vehicle on a public highway, a misdemeanor, in violation of Idaho Code § 23-505(2). See Case No. CR-MD-2009-0005855, Ada County District Court, State of Idaho;

b. On August 11, 2010, Respondent was found guilty of two (2) counts of possessing a controlled substance not obtained directly from, or pursuant to, a valid prescription or order of a practitioner, a felony, in violation of Idaho Code § 37-2732(c)(1). See Case No. CR-FE-2009-0005616, Ada County District Court, State of Idaho; and

c. On August 11, 2010, Respondent was found guilty of one (1) count of possessing a controlled substance not obtained directly from, or pursuant to, a valid prescription or order of a practitioner, a felony, in violation of Idaho Code § 37-2732(c)(3). See Case No. CR-FE-2009-0005616, Ada County District Court, State of Idaho.

8. On or about March 20, 2011, Respondent voluntarily surrendered her license to practice nursing in the state of Idaho. In the course of voluntarily surrendering her license, Respondent did not admit that she violated any of the Board's laws or rules. However, Respondent did acknowledge that the Board has sufficient evidence from which it might find and conclude that such a violation occurred. She also waived her rights to a hearing, and she consented to the Board entering an order accepting her voluntary surrender and revoking or otherwise disciplining her license as the Board deemed appropriate in its discretion. A true and correct copy of the voluntary surrender form signed by Respondent is attached hereto as Exhibit A.

9. Respondent knowingly and freely waived her right to a hearing, and waived all rights granted to Respondent pursuant to the Administrative Procedures Act, chapter 52, title 67, Idaho Code.

CONCLUSIONS OF LAW

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

2. Respondent's Idaho License No. N-29598 is conditioned upon her compliance with the laws and rules of the Board.

3. The allegations against Respondent, if proven, would constitute violations of the Idaho Nurse Practice Act and constitute grounds for revocation or suspension of Respondent's license to practice nursing pursuant to Idaho Code § 54-1413, specifically:
a. Idaho Code § 54-1413(1)(c) and Board Rule 100.02 (conviction of, or entry of a withheld judgment or a plea of nolo contendere to, conduct constituting a felony shall be grounds for discipline);

b. Idaho Code § 54-1413(1)(e) and Board Rule 100.06 (a nurse shall not habitually use narcotic, hypnotic or hallucinogenic drugs);

c. Board Rule 101.04.e (a 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);

d. Board Rule 101.05.e (a nurse shall be responsible and accountable for her nursing judgments, actions and competence); and

e. 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).

4. 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.

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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER - 4
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. N-29598 issued to Traci Jean Hartley is hereby:

   ☑  Revoked.
   ☑  Suspended. _____ days _____ year(s) ☑ indefinitely.

   During the period of suspension, Respondent shall not practice nursing in the state of Idaho.

2. 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. However, if Respondent’s appeal to the Idaho Supreme Court in Case No. CR-FE-2009-0005616 results in the reversal of her criminal convictions, Respondent shall immediately be eligible to apply for reinstatement. 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. This will include, but is not limited to, providing the following information to the Board:

   a. Completion of Criminal Sentencing and Probation/Parole.

      Documentation that Respondent has completed all terms and conditions of her criminal sentencing and probation/parole in the above-mentioned case(s).

   b. Health Care Providers: A written list of Respondent’s attending health care providers (including without limitation any therapists, counselors, or other mental health care providers).
c. **Health Care Provider’s Evaluation:** Respondent’s health care providers ("provider") must submit to the Board the provider’s evaluation describing Respondent’s current medical condition(s) and listing her prescriptions, including the dose/frequency and rationale for the medications prescribed. This evaluation shall be submitted on a form provided by the Board. The provider shall also identify any concerns that he/she may have about Respondent’s ability to safely practice nursing and what restrictions, if any, should be placed upon Respondent’s practice. When requesting such evaluations, Respondent shall provide the provider with, and request that the provider review, the Idaho Board of Nursing Position on Safety to Practice. A copy of the Idaho Board of Nursing Position on Safety to Practice is attached as Exhibit B.

d. **Narcotic/Controlled Substance Abuse Contract:** If Respondent is using narcotics on a regular basis she shall enter into a narcotic/controlled substance use contract with her current attending physician and comply with treatment and medication management.

e. **Documentation that Respondent is rehabilitated and competent to practice nursing as evidenced by:**

   i. A recent (within 6 months) comprehensive drug/alcohol evaluation completed by a qualified Board approved evaluator at the time of application for reinstatement; and

   ii. A detailed summary of employment since licensure revocation or suspension.
3. Upon reinstatement of Respondent's license to practice nursing in the state of Idaho, the Board, in its sole discretion, may issue Respondent a single-state license whereby 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.

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 14th day of April, 2011.

IDAHO STATE BOARD OF NURSING

By, [Signature]

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 service date 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 18th day of April, 2011, I caused to be served a true and correct copy of the foregoing by the following method to:

Traci Jean Hartley
Inmate No. 97903
SBWCC Unit 2
13200 S. Pleasant Valley Rd.
Kuna, ID 83634

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

Andrew J. Snook
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

☐ U.S. Mail
☐ Hand Delivery
☐ Certified Mail, Return Receipt Requested
☐ Facsimile: _________________________
☒ Statehouse Mail

Linda H. Coley, Management Assistant
Board of Nursing
IDaho State Board of Nursing
Voluntary Surrender of Nursing License
( Idaho Code § 54-1413(3)(a))

1. Traci Jean Hartley, voluntarily surrender my license to practice nursing, License No. N-29598, ("license") to the Idaho State Board of Nursing ("Board") and will immediately cease practicing as a nurse in the State of Idaho. By affixing my signature hereto, I acknowledge that:

1. I have been advised that, without my consent, no legal action can be taken against me except as allowed by the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and the laws and rules governing the practice of nursing, Title 54, Chapter 14, Idaho Code.

2. I have been advised of and I understand the nature of the allegations against me pertaining to: my diversion of narcotics from my former employer and my subsequent felony criminal convictions for the unlawful possession of a controlled substance in August 2010.

3. I understand I have, among others, the rights to: representation by legal counsel, a formal hearing, reasonable notice of such hearing, present evidence and testimony on my behalf, compel the testimony of witnesses, cross-examine the witnesses against me, and request reconsideration or appeal this matter to district court. I waive all such rights afforded to me, without further process, as a resolution of any claims or allegations which might otherwise be brought against me by the Board.

4. I also waive the right to contest this surrender and the right to challenge the Board for bias in any subsequent proceedings concerning this matter.

5. I understand that upon acceptance by the Board of this voluntary surrender, the Board will enter an order, pursuant to Idaho Code §54-1413, revoking, suspending, limiting, restricting or otherwise disciplining my license. The Board's Order may include a civil penalty and/or the imposition of costs and attorney fees incurred by the Board in its investigation and prosecution of any claims or allegations against me. I hereby consent to the imposition of such discipline.

6. In surrendering my license, I am not making any admissions. However, I agree that the allegations against me, if proven true in a disciplinary hearing, would constitute grounds for disciplinary action against my license.

7. I understand that by surrendering my license, I am also surrendering all the privileges associated with that licensure, until such time as I am again properly licensed.

8. I understand that in order to reinstate my license, I must re-apply to the Board pursuant to the provisions of Title 54, Chapter 14, Idaho Code and all applicable rules and orders entered by the Board.

9. I understand and agree that any decision regarding reinstatement of my license is a discretionary decision for the Board. I understand and agree that the Board may rely on factors set forth in this document or other than those set forth in this document as grounds for denial of a petition for reinstatement. If my license is reinstated, I understand the Board may place reasonable and/or required limitations or restrictions upon my license.

10. I agree that there will be no rebate or refund, either in full or in part, of any sums previously made by me in connection with my licensure, including, but not limited to, payments of license application or renewal fees.

Name of Licensee: Chaa Hartley
License No.: N-29598
Address: 13200 S Pleasant Valley Rd Kuna, ID 83634
Signature of Licensee: Chaa Hartley
Date: 3-20-11

Signature of Witness:
Date:

[Rev. 3-10]
In response to questions from nurses and their employers, the members of the Board of Nursing addressed the issue of ‘safety to practice’. In particular, nurses wanted to know if they should continue to practice while taking prescribed medications, including pain medications; whether they should refuse assignments to work overtime or extra shifts; whether they should consider retirement from practice when they have reached a certain chronological age.

The Board’s “Position on Safety to Practice” provides thoughtful direction to assist nurses and their employers in addressing these concerns.

**IDAHO BOARD OF NURSING**

**POSITION ON SAFETY TO PRACTICE**

Adopted April 29, 2005

One essential element of safe nursing practice is a nurse’s functional ability: the competence and reliability with which a nurse is able to practice at any given time.

The board is aware that nurses sometimes experience situations that may compromise their ability to safely practice for either the short or long term. Some of these situations involve personal or job-related stress, sleep deprivation, the normal effects of aging, and episodic or persistent health conditions, some of which may require pain management or the use of maintenance-level prescribed medication. The list is not exclusive.

Whether a nurse should continue active nursing practice when that practice may be compromised depends upon the nurse’s ability to function safely and effectively. The assessment of functional ability is an individualized process that does not lend itself to application of a set format based on select elements. On the contrary, assessment of functional ability requires active consideration of all relevant factors, such as diagnosis, prescribed treatment and situational events, as well as an evaluation of the impact of those factors on the individual being assessed.

Although constant evaluation of one’s ability to safely and competently practice nursing is the responsibility of each individual nurse, the Board of Nursing remains the ultimate decision maker. In some instances, it may be necessary for the board to require objective physical and/or functional assessment, using reliable psychometric instruments and methods administered by qualified licensed professionals. For example, even though an individual nurse might perceive that he is capable of safe practice, a neuropsychiatric assessment, done at the Board’s request, may indicate functional impairment.

Licensed nurses are accountable for assuring that their actions and behaviors meet all applicable standards at all times. This requires constant awareness of the demands of the job and a continual process of evaluation and assessment in order to make sure that the nurse is fit to practice and competent to safely perform those functions that fall within the defined scope of nursing practice and for which the nurse has accepted responsibility. Nurses who practice while not fit to do so may be subject to disciplinary action by the board including, among others, license suspension or revocation, remedial measures, or monitored practice.