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

Dwight Manwaring

Idaho Board of Nursing – PO Box 83720 – Boise, Idaho 83720-0061 – (208) 334-3110
Dwight Manwaring
105 E. 3000 N.
Rexburg ID 83440

Dear Mr. Manwaring:

During their meeting on July 23-24, 2009, 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to accept the Findings of Fact, Conclusions of Law and Final Order in which your professional nurse license, N-23205 was revoked based on voluntary surrender. 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 July 24, 2009. 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
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. Dwight Manwaring ("Respondent") has been licensed by the Idaho State Board of Nursing under License No. N-23205 to engage in the practice of nursing in the State of Idaho.

2. On May 8, 2009, the Idaho Board of Nursing filed and served a Complaint on Respondent. The Complaint alleged, in sum, that Respondent was working as a restorative nurse in a nursing home when he surreptitiously removed an elderly Alzheimer patient’s Fentanyl patch, and that Respondent then tested positive for Fentanyl, a drug for which he lacked a prescription. A copy of the Complaint is attached as Exhibit A.

3. On June 11, 2009, Respondent voluntarily surrendered his nursing license. In the course of voluntarily surrendering his license, Respondent did not admit that he violated any of the Board’s laws or rules. He did, however, acknowledge that the Board has sufficient evidence from which it might find and conclude that such a violation occurred. He also waived his rights to a hearing, and he consented to the Board entering an order accepting his voluntary surrender and revoking or otherwise disciplining his license as the Board deemed appropriate in its discretion. A copy of Respondent’s signed Voluntary Surrender of License form is attached as Exhibit B.
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. Pursuant to Idaho Code § 54-1413(3)(a), Respondent’s voluntary surrender of his license empowers the Board, without a hearing, to accept Respondent’s voluntary surrender and 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. N-23205 issued to Respondent, Dwight Manwaring 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, he 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. Evidence of abstinence from the use of non-medically prescribed drugs and alcohol;

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

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER - 2
i. A comprehensive drug/alcohol evaluation completed by a qualified 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 assess investigative costs and attorney fees incurred in this matter as a condition of reinstatement, and to impose such other conditions upon Respondent’s reinstated license as the Board may deem appropriate in its discretion.

This order is effective immediately.

DATED this 4th day of July, 2007.

IDAHO STATE BOARD OF NURSING

By

Susana 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 27th day of July, 2009, I caused to be served a true and correct copy of the foregoing by the following method to:

Dwight Manwaring
105 E. 3000 N.
Rexburg, Idaho 83440

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

Kipp Manwaring
Manwaring Law Office, PA
381 Shoup Avenue, Ste. 210
Idaho Falls, ID 83402

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

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage $7.23
Certified Fee
Return Receipt Fee
Restricted Delivery Fee
Total Postage & Fees $7.23

Sent to

DWIGHT B MANWARING
105 E 3000 N
REXBURG, ID. 83440

KIPP MANWARING
MANWARING LAW OFFICE, PA
381 SHOUP AVENUE STE 210
IDAHO FALLS ID 83402

Surface MAIL

SENDER: COMPLETE THIS SECTION

1. Article Addressed to:
   DWIGHT B MANWARING
   105 E 3000 N
   REXBURG, ID. 83440

COMPLETE THIS SECTION ON DELIVERY

A. Signature
B. Received by (Printed Name)
   MANWARING
C. Date of Delivery 7-30-09
D. Is delivery address different from item 1? Yes
   If YES, enter delivery address below: '09 AUG 4 AM 9:41
   105 E 3000 N
   REXBURG, ID. 83440

3. Service Type
   Certified Mail
   Registered
   Insured Mail
   C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

PS Form 3811, February 2004
102565-051M-1540

Domestic Return Receipt
1007 3020 0001 4047 1118
BEFORE THE IDAHO STATE BOARD OF NURSING

In the Matter of the License of:DWIGHT MANWARING, License No. N-23205, Respondent.

) ) Case No. BON 08-084
) ) COMPLAINT
)

To: Dwight Manwaring
105 E. 3000 N.
Rexburg, ID 83440

Complainant the Idaho State Board of Nursing (the "Board") charges Respondent Dwight Manwaring with violating the laws and rules governing the practice of nursing as follows:

FACTS

1. The Board regulates Idaho nursing practice under Idaho Code § 54-1404.

2. At all times relevant herein, Respondent was employed as a Restorative Nurse at Good Samaritan Society Idaho Falls Village in Idaho Falls, Idaho ("Good Samaritan").

3. In early June 2008, Fentanyl patches were discovered to be missing from residents' bodies at Good Samaritan.


5. At the time, Respondent was a "Restorative Nurse" whose position did not require him to frequently handle medications. Accordingly, he was not tested.

6. The staff members who were tested were negative for Fentanyl.

7. Subsequently, on November 25, 2008, an 89-year-old Alzheimer's patient at Good Samaritan received a 72-hour Fentanyl patch.

8. On November 26, 2008, staff who cared for the Alzheimer patient believed the patient's Fentanyl patch would not be removed that day and, but for the events
described below, they would have assumed that the existing patch would continue to control the patient’s pain through the day.

9. On that day, however, two staff members saw Respondent sweep his hand under the patient’s shirt and across the patient’s back. The staff members also saw Respondent making picking motions on the patient’s back where the Fentanyl patch was located.

10. Respondent was not assigned to care for the patient.

11. After Respondent left the patient, the staff attended the patient and found that the patient’s Fentanyl patch was missing. The area where the patch should have been was red, blanched and sticky, indicating the patch had just been removed.

12. The staff placed a new Fentanyl patch on the patient.

13. Good Samaritan then ordered drug screens to be performed on staff. This time, Respondent was tested. Respondent tested positive for Fentanyl. All other staff drug screens tested negative for Fentanyl.

14. Respondent did not have a Fentanyl prescription.

15. Respondent denied to Good Samaritan staff that he had removed the Fentanyl patch.

16. Good Samaritan suspended Respondent following the incident, and ultimately terminated his employment.

17. On December 16, 2008, Good Samaritan filed a Report of Violation of the Nursing Practice Act with the Board that alleged, in sum, that Respondent had removed the patient’s Fentanyl patch and then tested positive for Fentanyl.

CONTROLLING LAW

18. Respondent’s conduct as described above is grounds for discipline under the Board’s laws and Rules, including:

a. Idaho Code § 54-1413(1)(d) and Board Rule 100.05 (gross negligence or recklessness in performing nursing functions);
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);

c. Idaho Code § 54-1413(1)(h) and Board Rule 100.09 (a nurse shall not engage in conduct of a character likely to deceive, defraud or endanger patients or the public);

d. Board Rule 101.04.d (a nurse shall act to safeguard the patient from the incompetent practice, verbal or physical abusive acts or illegal practice of any person);

e. 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);

f. Board Rule 101.05.c (a nurse shall be responsible and accountable for his nursing judgments, actions and competence); and

g. Board Rule 101.05.f (a nurse shall respect the property of the patient and employer and shall not take or divert equipment, materials, property, or drugs without prior consent or authorization).

REQUESTED RELIEF

WHEREFORE, Complainant requests that the Board provide the following relief:

1. That the Board conduct a hearing to allow the State and Respondent to present evidence on the Complaint’s allegations;

2. That after the hearing, the waiver of a hearing, or Respondent’s failure to file an Answer to the Complaint, the Board, or its designated hearing officer, shall issue findings of fact and conclusions of law finding the violations of law alleged herein;

3. That the Board determine whether Respondent’s license should be suspended, revoked or otherwise disciplined;

4. That Respondent be ordered to pay the Board’s expenses incurred in
investigating and prosecuting this matter including without limitation attorney fees and costs; and

5. For such other and further relief as the Board deems just and proper.

DATED this 8th day of May, 2009.

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 written 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, request a hearing and/or fail to appear at a schedule 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.

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 of the Idaho Rules of the Administrative Procedure of the Attorney General may be obtained at the Idaho State Law Library and at many county law libraries. The Idaho Administrative Procedure Act is available on the internet at:

http://www3.state.id.us/idstat/TOC/67052KTOC.html.

The Idaho Rules of Administrative Procedure are available on the internet at:

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

Idaho State Board of Nursing
280 N. 8th Street, Suite 210
Boise, ID 83720-0061
Telephone: (208) 334-3110
Facsimile: (208) 334-3262

All original official documents must be received by the Board between the hours of 8 a.m. and 5 p.m. except Saturdays, Sundays, and holidays. The Board does permit the filing of facsimile copies of documents that do not exceed ten pages provided that the facsimile transmission is received during the hours of 8 a.m. and 5 p.m. except Saturdays, Sundays, and holidays and is legible in its entirety. It shall be the responsibility of the filing party to verify with the staff of the Board staff that any facsimile transmission is successfully received and legible in its entirety.

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

Karl T. Klein
Deputy Attorney General
Civil Litigation Division
P.O. Box 83720
Boise, ID 83720-0010
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of May, 2009, I caused to be served a true and correct copy of the foregoing addressed as follows:

Dwight Manwaring
105 E. 3000 N.
Rexburg, ID 83440

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

☐ U.S. Mail
☐ Certified Mail, Return Receipt Requested
☐ Overnight Mail
☐ Facsimile:
☐ Statehouse Mail

Karl T. Klein
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

Sandra Evans, M.A.Ed., R.N.
Executive Director
Board of Nursing
IDAHO STATE BOARD OF NURSING

VOLUNTARY SURRENDER OF LICENSE
Idaho Code 54-1413(3)(a)

I, Dwight B. Manwaring, RN, hereby voluntarily surrender my nursing license, number N-23205, to the Idaho State Board of Nursing (the "Board"). In voluntarily surrendering my license, I am returning my license to the Board, consenting to the extinguishment of any privileges or rights to practice that may flow from that license, and agreeing to immediately discontinue practicing nursing in Idaho. This surrender is done voluntarily, and without any order, order to show cause, hearing, or any other proceeding compelling it to occur.

I understand that the Board has received a complaint alleging that I violated Idaho Law, title 54, chapter 14, Idaho Code, and/or the rules promulgated by the Board. Although I do not admit that I have violated any such laws or rules, I do acknowledge that the Board has sufficient evidence from which it might ultimately find and conclude that such a violation occurred. I am voluntarily surrendering my license to expeditiously resolve this matter and as an indication of my good faith in desiring to remedy any incorrect or unlawful practices on my part.

I understand that this voluntary surrender waives important rights I might otherwise have in a licensing proceeding before the Board. For example, I understand that I have the right to a hearing, the right to confront and cross-examine witnesses, the right to present evidence and testimony on my behalf, the right to appeal and all other rights accorded to me by the Idaho Administrative Procedures Act, title 67, chapter 52, Idaho Code, and the laws and rules governing the practice of veterinary medicine, title 54, chapter 14, Idaho Code. I hereby freely and knowingly waive these rights in order to resolve this matter.

I acknowledge that the Board has jurisdiction to proceed against my license pursuant to Idaho Code § 54-1401 et seq. I understand and agree that following this surrender, the Board may, without affording me a hearing or further process, enter findings of fact, conclusions of law, and an order based upon the voluntary surrender of my license and the Board's investigation into the allegations pending against me. I understand that the Board's order may accept my voluntary surrender and revoke or suspend my license and/or impose such conditions, limitations, or restrictions on my practice as may be appropriate in the Board's discretion. I hereby consent to the entry of such an order and the imposition of any such discipline.

I acknowledge that by surrendering my license, I am surrendering all of the privileges associated with said license, including without limitation any rights I might have to licensure renewal, until such time as I am again properly licensed. I understand that to regain a license to practice in the State of Idaho, 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. I agree that any decision to reinstate my license is a discretionary decision for the Board, and that as a prerequisite to reinstatement the Board may require me to reimburse the Board for any costs or fees it incurs to investigate or prosecute any claims or allegations against me and impose such other conditions upon my license as the Board may deem appropriate in its discretion. 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 when reviewing, or as grounds for denying, any petition for reinstatement of my license or any license application that I may submit.

I waive any refund to which I may be entitled of any payments made by me in connection with my license.

Name of Licensee: Dwight B. Manwaring, RN  License No.: N-23205
Address: 105 E. 3000 N. Pocatello, Idaho 83201
Signature of Licensee: [Signature]
Date: 6/11/2009
Signature of Witness: [Signature]
Date: 6/11/2009

EXHIBIT B