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

CINDY MYERS
PN-7224

Idaho Board of Nursing – PO Box 83720 – Boise, Idaho 83720-0061 – (208) 334-3110
To Whom it May Concern:

I have decided not to pursue my request for reconsideration of my license, as I wish to concentrate my efforts on my recovery at this time. I would like to keep open the option of reapplying for my license in one year, though.

Thank you,

Cindy Myers

I take Board of Nursing
March 25, 2002

Cindy Meyers
1113 W. Chestnut Street
Sandpoint, ID 83864-2133

Re: Request for Reconsideration

Dear Ms. Meyers:

The Board staff has reviewed your recent request for reconsideration, received on March 5, 2002. The Board’s Order, revoking your license to practice based on a previous voluntary surrender and subsequent failure to comply with the terms of your limited licensure, was entered on February 18, 2002. Your request for reconsideration is premised on an argument that compliance with the recent PRN Advisory Committee order, issued in response to your relapse, was impossible due to financial constraints. You also challenge the finding that, by signing the voluntary surrender agreement of March 1998, you knowingly waived your rights to further hearing and any other rights available to you pursuant to the Idaho Administrative Procedures Act.

It appears that you are in agreement with the stated allegations concerning the March 1998 voluntary surrender of your license, and the subsequent issuance of a limited license in October of that year. You do not raise any issue with respect to the Board’s finding concerning the fact of your recent relapse. Whether or not you were able to enter a treatment program, the fact of your recent relapse (which you do not deny) constitutes a sufficient ground for the imposition of an order of discipline.

The fact that you violated your agreement with the PRN Advisory Committee constitutes a separate ground for discipline. It is clear that, both under the law and the PRN agreement, continued licensure depended upon your strict compliance with the program and the directives of the Committee.

Although the Board disagrees with the contention that you did not knowingly waive your rights to a hearing, you are being granted permission to appear before the Board during the upcoming meeting. The purpose of your appearance
will be to afford you the opportunity to show cause why your license should not be revoked based on your relapse and/or on the failure to comply with the lawful order of the PRN committee. Assuming that you desire to appear before the Board to pursue your request for reconsideration, you should contact Linda Coley, the Board secretary, at (208) 334-5150, to schedule an appearance. As the next meeting of the Board is scheduled to take place on May 16 and 17, 2002, you should contact Ms. Coley as soon as possible.

If you have any questions concerning this correspondence, please do not hesitate to call.

Sincerely,

KAY C. MANWEILER
Deputy Attorney General
Contracts & Administrative Law Division

KCM/js
c: Sandy Evans, MA.Ed., R.N.
BEFORE THE BOARD OF NURSING

STATE OF IDAHO

In the Matter of: )

CINDY MYERS, )
License No. PN-7224, )
Respondent. )

Case No. 98-013

STATE'S MEMORANDUM IN OPPOSITION TO RESPONDENT'S MOTION FOR RECONSIDERATION

COMES NOW the State of Idaho, Board of Nursing, by and through its prosecuting attorney Kirsten L. Wallace, and hereby submits its memorandum in opposition to Respondent's motion for reconsideration.

I.

ARGUMENT

Respondent Myers signed a Voluntary Surrender of Licensure form on or about March 4, 1998, admitting that she had diverted morphine, a schedule II controlled substance. (Findings of Fact, Conclusions of Law, and Final Order Ex. 1.) Idaho Code § 54-1412(b) (now 54-1413(2)(a)) allows the Board of Nursing to accept the voluntary surrender of a license from any nurse under investigation and accordingly enter an order

STATE'S MEMORANDUM IN OPPOSITION TO RESPONDENT'S MOTION FOR RECONSIDERATION - 1
revoking or suspending such license and/or imposing such conditions, limitations, or restrictions as may be appropriate. Respondent’s admission that she diverted morphine, if proven at a hearing, would have constituted violations of Idaho Code § 54-1413(1)(d), (c), (g), and (h), and IDAPA 23.01.01100.05, 100.06, and 100.09.b. (Findings, p. 2 ¶ 2.)

The Board, subsequent to Respondent’s surrender of licensure, allowed Respondent to participate in the Program for Recovering Nurses. (Findings, p. 1 ¶ 4.) Respondent, however, did not follow through with her participation in the program. (Findings, p. 1 ¶ 4.) Accordingly, the Board entered an order revoking Respondent’s license on February 18, 2002. On February 28, 2002, Respondent sent the Board a letter stating that she was “filing a motion for reconsideration of Nsg. License No. PN-7224.”

Paragraph IV of the Voluntary Surrender of Licensure form that Respondent signed contained a waiver of rights provision, stating:

I hereby waive the right to a hearing concerning the foregoing admitted facts, and waive my rights under the provisions related to contested cases in the Administrative Procedures Act, Chapter 52, Title 67, Idaho Code.

Therefore, when Respondent signed the Voluntary Surrender Form, she had waived all rights related to contested cases granted to her under the Administrative Procedures Act, including the right to request reconsideration of any final board order pursuant to Idaho Code § 67-5246(4).

The Board’s Order dated February 18, 2002, did contain a notice of due process rights. However, the notice contained a clearly visible disclaimer that stated:

NOTE: THIS NOTICE IS PROVIDED SOLELY FOR COMPLIANCE WITH IDAHO CODE § 67-5248, AND IS NOT INTENDED TO REINSTATE ANY RIGHTS PREVIOUSLY WAIVED BY RESPONDENT.

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1 The Code Sections were formerly designated as Idaho Code §§ 54-1412(a)(4), (a)(5), (a)(7), and (a)(8), respectively.

STATE’S MEMORANDUM IN OPPOSITION TO RESPONDENT’S MOTION FOR RECONSIDERATION - 2
Idaho Code § 67-5248 provides that an order “shall include...[a] statement of the available procedures and applicable time limits for seeking reconsideration or other administrative relief.” (emphasis added.) According to the voluntary surrender form, Respondent waived all of her rights related to contested cases, including her right to seek reconsideration of the Board’s final order. Therefore, the right of reconsideration was not available to her, and the Board was not required to provide the notice of due process rights that it did. The Board, however, apparently chose to be overly cautious because of the language in Idaho Code § 67-5248 which provides that a statement of procedures “shall” be included in any written order. To avoid any mistaken impression that the Board was reinstating rights previously waived by Respondent, the Board included an appropriate disclaimer. The Board, therefore, did not intend to reinstate and did not reinstate any rights previously waived by Respondent, which would include the right to request reconsideration of the Board’s order.

II.

CONCLUSION

Not only was the right to request reconsideration unavailable to Respondent because of her waiver of rights, the Board’s notice did not intend to and did not reinstate that right. Therefore, Respondent’s motion asking for reconsideration should be denied.

DATED this 13th day of March, 2002.

By

[Signature]

Kirsten L. Wallace
Deputy Attorney General

STATE’S MEMORANDUM IN OPPOSITION TO RESPONDENT’S MOTION FOR RECONSIDERATION - 3
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of March, 2002, I caused to be served a true and correct copy of the foregoing STATE’S MEMORANDUM IN OPPOSITION TO RESPONDENT’S MOTION FOR RECONSIDERATION addressed as follows:

Cindy Myers
1113 W. Chestnut St.
Sandpoint, ID 83864

U.S. Mail, postage prepaid

X

Certified U.S. Mail, return receipt

Hand Delivery

Overnight Mail

Facsimile:

Statehouse Mail

Kay C. Manweiler
Deputy Attorney General
Contracts and Administrative Law Division
P.O. Box 83720
Boise, ID 83720-0010

U.S. Mail, postage prepaid

Hand Delivery

Overnight Mail

Facsimile:

Statehouse Mail

Kirsten L. Wallace
Feb 28, 2002

Board of Nursing:

I, Cindy Myers, am filing a motion for reconsideration of my license No PN-7224.

Cindy Myers
BEFORE THE BOARD OF NURSING

STATE OF IDAHO

In the Matter of:  

CINDY MYERS,  
License No. PN-7224,  

Respondent.  

Case No. 98-013

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 Board of Nursing (hereinafter the “Board”) hereby enters the following Findings of Fact, Conclusions of Law, and Final Order:

FINDINGS OF FACT

1. Respondent Cindy Myers (“Respondent”) is a duly licensed nurse in the State of Idaho holding License No. PN-7224.

2. On or about January 8, 1998, the Board received a complaint from Respondent’s employer that Respondent had admitted to diverting morphine and self-medicating with morphine.

3. On or about March 4, 1998, Respondent voluntarily surrendered her license, admitting to violations of the Nursing Practice Act. A true and correct copy of the voluntary surrender form signed by Respondent is attached hereto as Exhibit 1.

4. On or about October 22, 1998, the Board issued Respondent a limited license to resume nursing practice under certain conditions. One of those conditions was remaining compliant with the terms of her contract with the Program for Recovering Nurses (“PRN”). On October 5, 2001, the Board received information that Respondent relapsed and the Advisory Committee members of the PRN ordered her to enter a treatment program in order to remain in the PRN. Respondent failed to enter treatment...
according to her PRN contract, and her limited license was subsequently withdrawn on or about October 30, 2001.

5. 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 to the provisions of title 54, chapter 14, Idaho Code, and the rules and regulations promulgated by the Board thereunder.

2. The allegations in the complaint, if proven, would constitute violations of the Nursing Practice Act and Rules and constitute grounds for revocation or suspension of Respondent’s license to practice nursing pursuant to Idaho Code § 54-1413(1)(d), (e), (g), and (h), and IDAPA 23.01.01100.05, 100.06, and 100.09.b.

3. Respondent’s voluntary surrender of licensure authorizes the Board to revoke or suspend Respondent’s license without further process pursuant to Idaho Code § 54-1413(2).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, based upon the foregoing Findings of Fact and Conclusions of Law, and good cause being shown, that Nursing License No. PN-7224 issued to Respondent Cindy Myers is

\[ \checkmark \] Revoked

\[ \_ \] Suspended _____ days/year(s) _____ indefinitely

based upon voluntary surrender, and is subject to subsequent review pursuant to Idaho Code § 54-1413(3).

It is further ordered that, should Respondent request reinstatement of licensure in the future, that she present the following information to the Board with her application for reinstatement:

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER - 2
1. Evidence of abstinence from the use of non-medically prescribed drugs and alcohol;

2. Documentation that she is rehabilitated and competent to practice nursing by submitting:
   a. A comprehensive drug/alcohol evaluation completed by a qualified mental health care provider at the time of application for reinstatement;
   b. A detailed summary of employment since licensure revocation or suspension;
   c. Documentation of activities engaged in to address drug/alcohol issues, to include documentation of an active recovery program; and

3. Evidence of financial compliance with NCPS and the Program for Recovering Nurses.

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

This order is effective immediately.

DATED this 18th day of February, 2002.

IDAHO BOARD OF NURSING

By Charles Moseley, CRNA
Charles Moseley, CRNA
Chair
NOTICE OF DUE PROCESS RIGHTS

NOTE: THIS NOTICE IS PROVIDED SOLELY FOR COMPLIANCE WITH IDAHO CODE § 67-5248, AND IS NOT INTENDED TO REINSTATE ANY RIGHTS PREVIOUSLY WAIVED BY RESPONDENT.

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 Board 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 Board 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.

If respondent’s license was revoked, then pursuant to Board Rule 121, Respondent may apply to the Board for reinstatement one (1) year after the execution of this Order. At the time of application, the Board may conduct further evidentiary hearings to determine whether to grant a license, extend a limited license, or deny application for reinstatement.

If respondent’s license was suspended, then pursuant to Board Rule 120, Respondent may apply to the Board within a reasonable time after the execution of this Order, or as specified by the term of suspension. At the time of application, the Board may conduct further evidentiary hearings to determine whether to grant a license, extend a limited license, or deny application for reinstatement.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER - 4
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this __20th__ day of February, 2002, I caused to be served a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER addressed as follows:

Cindy Myers
1113 W. Chestnut St.
Sandpoint, ID 83864

[Checkmarks for delivery methods]

Kirsten L. Wallace
Deputy Attorney General
Civil Litigation Division
P.O. Box 83720
Boise, ID 83720-0010

[Checkmarks for delivery methods]

Sandra Evans, M.A.Ed., R.N.
Executive Director
1. Article Addressed to:

CINDY MYERS
1113 W CHESTNUT ST
SANDPOINT ID 83864

2. Article Number (Copy from service label)

PS Form 3811, July 1999
Domestic Return Receipt

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

OFFICIAL USE

S 2/21/02

Postage

Certified Fee

Return Receipt Fee
(Endorsement Required)

Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees

B 4

Cindy Myers
1113 W Chestnut St
Sandpoint ID 83864

PS Form 3811, May 2000
See reverse for instructions
I, Cindy Myers, admit that:

I did desert morphine.

I understand and acknowledge that the admitted facts constitute grounds for disciplinary action under Section 54-1412, of the Nursing Practice Act, IDAHO CODE.

I hereby voluntarily surrender license number PN-7224 and I shall forthwith discontinue the practice of nursing in Idaho.

I hereby waive the right to a hearing concerning the foregoing admitted facts, and waive my rights under the provisions related to contested cases in the Administrative Procedures Act, Chapter 52, Title 67, IDAHO CODE.

STATE OF IDAHO
BOARD OF NURSING

1986-1998
LICENSE NUMBER
PN-7224

CINDY L MYERS
1113 CHESTNUT ST
SANDPOINT, ID 83864

HAS COMPLIED WITH THE REQUIREMENTS OF THE LAW AND IS AUTHORIZED TO PRACTICE AS A LICENSED PRACTICAL NURSE

EXECUTES AUGUST 31, 1998

Signature of Licensee

Signature of Witness

1/89 1/93

Exhibit 1
Page 1 of 1
In response to Finding of Fact:

1. Agree

2. Agree

3. Agree

4. I was unable financially to enter the 90 day treatment program. I consulted with programs in the area and was unable to be admitted in the required time period. I am currently attending all AA/NA meetings and socializing with program members in the community. I am attending outpatient group and individual counseling at Powder Basin Associates. I have a record of all meetings and activities. My random drug tests have all been negative.

5. I did not knowingly waive my right to a hearing on my right pursuant to the Administrative Procedures Act.

Enclosed: Correspondence and evaluations

Cindy Myers
Dear Ms. Myers:

NOTICE OF WITHDRAWAL OF LIMITED LICENSE

You are hereby notified that limited license, number PN-7224, issued under provisions in IDAPA 23.01.132, is withdrawn, effective immediately.

You are further notified that such action is deemed necessary in the interest of public health, safety and welfare due to failure to comply with the terms and conditions of limited licensure, by:

a. Failure to maintain full compliance with the terms of your contract with the Program for Recovering Nurses.

Your file was reviewed by the Advisory Committee members of the Program for Recovering Nurses at their meeting on October 19, 2001. It was the Committee’s decision to require that you enter a 90-day treatment program by November 1, 2001, in order to remain in the program. Failure to make arrangements to enter this treatment program will result in your file being referred to the Board of Nursing for formal disciplinary action. In the meantime, you may not be employed as a licensed nurse in the State of Idaho until you have once again been approved for a limited license.

Dated: October 30, 2001

SANDRA EVANS, MAEd, RN
Executive Director

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.
Idaho Board of Nursing
LIMITED LICENSE

PN-7224
RN______ PN _____

CINDY MYERS
1113 W CHESTNUT ST
SANDPOINT IDAHO 83864

Failure to comply with stipulated terms may result in withdrawal and disciplinary action.

Expires: 10/22/2003  (See Reverse)

LIMITED LICENSE - Receipt

Receipt No: 24038
Amount $90.00

RN _____ LPN _____

DATE ISSUED 10-22-98

BY ________ Imo

SENDÉR: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

CINDY MYERS
1113 W CHESTNUT ST
SANDPOINT ID 83864

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

Mike Myers 11/5/01

C. Signature

X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

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 Co)

OFFICIAL

PS Form 3811, July 1999

Domestic Return Receipt

LNC

100.00 0000 9/11/8157

Postmark Here

CINDY MYERS
1113 W CHESTNUT ST
SANDPOINT ID 83864

PS Form 3800, May 2000 See Reverse for Instructions