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

CECILIA OCENAR
N-35228

Idaho Board of Nursing – PO Box 83720 – Boise, Idaho 83720-0061 – (208) 334-3110
Cecilia Ocenar
1919 17th Street
Heyburn, ID 83336

Dear Ms. Ocenar:

During their meeting on October 27-28, 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to accept the Findings of Fact, Conclusions of Law and Final Order in which your professional nurse license, N-35228 was revoked.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 October 28, 2011. 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

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:

CECILIA OCENAR, RN,
License No. N-35228,

Respondent.

Case No. BON 09-088

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

The Idaho State Board of Nursing ("Board") enters the following Findings of Fact, Conclusions of Law, and Final Order:

FINDINGS OF FACT

1. The Board regulates the practice of nursing in Idaho pursuant to Idaho Code § 54-1401, et seq.

2. Cecilia Ocenar ("Respondent") is licensed by the Board under License No. N-35228 to practice nursing in the State of Idaho.

3. Respondent's continued right to licensure is subject to her compliance with the laws of the Board codified at title 54, chapter 14, Idaho Code, and the rules of the Board, promulgated at IDAPA 23.01.01, et seq.

4. At all times relevant to these proceedings Respondent was employed as a nurse at the Mini-Cassia Care Center in Burley, Idaho ("Care Center").

5. On or about November 20, 2009, the Board received a Report Form for Violation of the Nursing Practice Act ("Report") from the Care Center. The Report provided that on November 14, 2009, Respondent allegedly failed to promptly notify a patient's physician when the patient experienced a change in condition. Following the change in condition, the patient died later the same day. The Report also provided that following an internal investigation of Respondent's conduct, the Care Center terminated Respondent's employment.

6. On or about June 30, 2010, the Board filed a formal Administrative Complaint against Respondent. The allegations set forth in the Administrative Complaint included the following:
a. On November 14, 2009, Respondent was working as a nurse at the Care Center during the nightshift.

b. At approximately 3:35 a.m. on November 14, 2009, patient D.P., a patient at the Care Center under Respondent’s care, began vomiting moderate amounts of fluid, chocolate or dark in color. In the preceding several days, any fluids vomited by patient D.P. were clear in color.

c. After observing the change in color of the fluids being vomited by patient D.P., Respondent did not notify patient D.P.’s physician of this change in his condition.

d. Patient D.P.’s physician was not made aware of the change in patient D.P.’s condition until 8:50 a.m. on November 14, 2009, after patient D.P. had become unresponsive.

e. At 9:00 a.m. on November 14, 2009, patient D.P. was transported to the emergency room at Cassia Regional Medical Center. Patient D.P.’s condition continued to deteriorate and he was pronounced dead at 9:53 a.m. that same day.

The Administrative Complaint is expressly incorporated herein by reference and made a part hereof:

7. Between December 10, 2009, and January 12, 2011, the Board attempted to contact Respondent several times via certified mailing and telephone messages. Despite certain certified mailings being signed for on Respondent’s behalf, Respondent failed to contact the Board regarding its investigation of this matter, and was otherwise uncooperative with the Board’s investigation.

8. Copies of the Administrative Complaint, along with the Notification of Procedural Rights, were sent to Respondent on July 1, 2011, by United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail. The mailings were addressed to Respondent at Respondent’s last known mailing address on file with the Board, as follows:
Cecilia Ocenar
2441 Oakley Ave., Apt. #2
Burley, ID 83318-2961

9. On or about July 6, 2011, the Board received back from the post office the certified mail return receipt for the Administrative Complaint sent by certified mail indicating it could not be delivered, because Respondent had moved and not left a forwarding address.

10. On or about July 6, 2011, the Board received back from the post office the copy of the Administrative Complaint sent by regular mail indicating that it could not be delivered, because Respondent had moved and not left a forwarding address.

11. On July 11, 2011, additional copies of the Administrative Complaint, along with the Notification of Procedural Rights, were sent to Respondent by United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail. The mailings were addressed to Respondent’s current address, as determined by the Board’s investigation, as follows:

Cecilia Ocenar
1919 17th Street
Heyburn, ID 83336

12. On or about July 18, 2011, the Board received back from the post office the copy of the second Administrative Complaint sent by regular mail indicating that it could not be delivered, because Respondent had moved and not left a forwarding address.

13. On or about July 19, 2011, the Board received back from the post office the certified mail return receipt indicating that the second copy of the Administrative Complaint sent by certified mail could not be delivered, because Respondent had moved and not provided a forwarding address.

14. At no time during these proceedings did Respondent provide the Board with an updated mailing address.

15. 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.

16. On September 28, 2011, a Notice of Proposed Default 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’s current address, as determined by the Board’s investigation, as follows:

Cecilia Ocenar  
1919 17th Street  
Heyburn, ID 83336

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

18. On October 6, 2011, a Default Order was issued by Roger Gabel, the appointed Hearing Officer in this matter. Therefore, the allegations contained in the Administrative Complaint on file in this matter, and incorporated herein, are admitted as true without the necessity of conducting a hearing.

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 Administrative Complaint was sent to Respondent at her current mailing address, as determined by the Board’s investigation. Respondent failed to provide the Board with any updated or alternate address during these proceedings. 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 authorized the Board, pursuant to Idaho Code § 67-5242(4), to enter an Order of Default, which is as if all the allegations in the Administrative Complaint were proved or admitted at a hearing.
4. Respondent's acts as detailed in the incorporated Administrative Complaint constitute violations of the laws and rules governing Idaho nursing practice, as follows:

   a. Idaho Code § 54-1413(1)(d) and Board Rule 100.05 (a nurse may be subject to discipline if he or she is or has been grossly negligent or reckless 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. Board Rule 100.12 (a nurse shall cooperate with authorities in the investigation of any alleged misconduct and/or shall provide information on request of the Board);

   d. Board Rule 101.04.a. (a nurse shall have knowledge of the statutes and rules governing nursing and shall function within the defined legal scope of nursing practice);

   e. 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);

   f. Board Rule 101.04(i) (a nurse shall observe the condition and signs and symptoms of a patient, record the information, and report to appropriate persons any significant changes); and

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

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 FINAL ORDER - 5
2. License No. N-35228 issued to Cecilia Ocenar is hereby:

  □ Revoked.
  □ 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. 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. At such time as Respondent requests reinstatement of licensure, she shall comply with the requirements of Idaho Code § 54-1411(3) and IDAPA 23.01.01.062.

4. The Board reserves the right to assess investigative costs 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 30 day of ____________, 2011.

IDAHO STATE BOARD OF NURSING

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 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 15th day of November, 2011, I caused to be served a true and correct copy of the foregoing by the following method to:

Cecilia Ocenar
1919 17th Street
Heyburn, ID 83336

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

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

Email: andy.snook@ag.idaho.gov
leslie.gottsch@ag.idaho.gov

Linda Coley, Management Assistant
Idaho Board of Nursing
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Sent To

CECILIA OCENAR 1919 17TH ST
HEYBURN, ID. 83336