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

KENNETH PAUL
N-20774

Idaho Board of Nursing – PO Box 83720 – Boise, Idaho 83720-0061 – (208) 334-3110
BEFORE THE IDAHO STATE BOARD OF NURSING

In the Matter of the License of: KENNETH PAUL,
License No. N-20774,
Respondent. Case No. BON 94-24

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND FINAL ORDER

Pursuant to the Notice of Hearing dated July 18, 2002, Respondent Kenneth Paul, appeared before the Idaho State Board of Nursing during its meeting of August 8 and 9, 2002. Mr. Paul appeared without benefit of counsel. The State of Idaho was represented by David Lloyd, Deputy Attorney General. Kay C. Manweiler, Deputy Attorney General, acted as Hearing Officer during the proceedings. Members of the Board participating in the hearing were Charles Moseley, RN, CRNA, Daniel Bauer, RN, Shirlie Meyer, RN, Analyn Frasure, LPN, Karen Ellis, RN, Claudeen Buettner, RN, Dianne Kinney, RN, and Sheri Florence, Consumer Member of the Board. Also participating in the proceedings were Sandra Evans, M.A.Ed., R.N., Executive Director of the Idaho State Board of Nursing, and Vicky Goettsche, Associate Director of the Idaho State Board of Nursing.

The Board, having reviewed the Notice of Withdrawal of Probationary Limited License issued by Sandra Evans, Executive Director of the Board, on June 12, 2002, the various pieces of correspondence and other materials in the file, including the February 14, 2001 letter in which Respondent was issued a limited license with conditions, and having heard the testimony of Vicky Goettsche on behalf of the state of Idaho and Respondent in his own defense, and good cause appearing therefore, finds that:
FINDINGS OF FACT

1. The Board may regulate the practice of nursing in the State of Idaho in accordance with title 54, chapter 14, Idaho Code.

2. On February 14, 2001, following the board’s review of written materials and a conference with the board, Respondent was issued a limited license with conditions.

3. On February 16, 2001, Respondent executed a written agreement agreeing to the terms under which the probationary limited license was being issued and agreeing to comply with the monitoring conditions that were being imposed. Respondent, by executing the document, acknowledged the board’s statutory right to withdraw the probationary limited license, without prior notice, in the event that it received information or evidence that any of the monitoring conditions was not being met for two (2) years. A copy of the agreement is attached hereto as Exhibit A.

4. In addition to other conditions, the agreement required that Respondent abstain from utilizing all mind-altering and potentially addicting drugs and alcohol, unless medically authorized (in which case, a copy of the prescription was required to be sent to the Board and the National Confederation of Professional Services).

5. On June 3, 2002, Respondent submitted a urine sample that tested positive for ethanol and hydromorphone.

6. Ethanol and hydromorphone are mind altering and/or potentially addicting drugs.

7. On June 12, 2002, Respondent was notified of the withdrawal of his probationary limited license on the ground that he had failed to abstain from mind-altering or potentially addicting drugs, in violation of paragraph 1. of the Agreement of Probationary Limited License and Monitoring Conditions, and was also advised of his right to have a hearing regarding this
decision. Respondent subsequently requested a hearing on the matter, seeking reinstatement of his probationary limited license. A copy of the notification of withdrawal and hearing rights is attached hereto as Exhibit B.

8. A hearing was conducted, pursuant to notice, on August 8, 2002. At no time during his testimony, did Respondent deny that that he had violated the conditions of his limited licensure.

9. Respondent testified that he believed addiction to be a chronic disease characterized by periods of sobriety of varying length interrupted by anticipated yet unpredictable periods of relapse, also of varying length.

10. Respondent further testified that, regardless of the fact that he anticipates another relapse, he believed it would be appropriate for the Board to reinstate his limited license but with “more stringent conditions.” Under questioning, he acknowledged that there was no way the board could assure that he would comply with any conditions that it might impose.

11. Respondent testified that, since 1992, the time periods elapsing between relapses were growing longer. He testified that before his most recent relapse he had been sober for 3 ½ years. He admitted to using alcohol about 5 weeks before the hearing took place.

12. Respondent’s supervisor at the Elks Hospital, Patricia Mahrt, testified in his support. She indicated that Respondent had been a successful employee and that she would be willing to work with him to avoid problems if his license were reinstated. She offered to provide additional screening or reports and to adjust schedules so that Respondent would not be required to work nights.
CONCLUSIONS OF LAW

1. The facts as stated above fall within the regulatory jurisdiction of the Idaho State Board of Nursing as set forth in title 54, chapter 14, Idaho Code.

2. The facts as stated in paragraph 4, above, constitute a violation of the monitoring conditions set forth in the Acknowledgment of Probationary Limited License and Monitoring Conditions executed by Respondent on February 16, 2001, and as such, constitute sufficient grounds for the imposition of further discipline, including a refusal to reinstate the withdrawn probationary limited license.

ORDER

NOW, THEREFORE, it is hereby ORDERED that the withdrawal of the conditional Probationary Limited License, issued February 14, 2001, to Respondent Kenneth Paul and numbered N-20774, be affirmed.

IT IS FURTHER ORDERED that Respondent Kenneth Paul will not be permitted to apply to or petition the board for reinstatement of this license, or issuance of any other license, for a period of not less than five years from the date of issuance of this order. In the event that Respondent should apply to or petition the board for reinstatement, his application or petition must provide evidence, satisfactory to the board, of five continuous years of sobriety immediately preceding filing of the petition or application, in addition to meeting the other requirements for licensure. With regard to sobriety, Respondent will be required to document abstention from all mind-altering and potentially addicting drugs and alcohol unless medically authorized for the required period.
NOTICE OF APPEAL RIGHTS

This is a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency 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 § 67-5246(4), Idaho Code.

Pursuant to §§ 67-5270 and 67-5272, Idaho Code, 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:

i. A hearing was held,

ii. The final agency action was taken,

iii. The party seeking review of the order resides or operates its principal place of business in Idaho, or

iv. 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 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 § 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

DATED this 24th day of September, 2002.

IDAHO STATE BOARD OF NURSING

By:  CHARLES MOSELEY, Chairman

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER - 5
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of September 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:

David Lloyd
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

Kay C. Manweiler
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

Kenneth Paul
5867 Eastwood Place
Boise, ID 83712

___ U.S. Mail, postage prepaid
___ Certified U.S. Mail, return receipt
___ Hand Delivery
___ Overnight Mail
___ Facsimile: ________________________
    Statehouse Mail

___ U.S. Mail, postage prepaid
___ Certified U.S. Mail, return receipt
___ Hand Delivery
___ Overnight Mail
___ Facsimile: ________________________
    Statehouse Mail

___ U.S. Mail, postage prepaid
___ Certified U.S. Mail, return receipt
___ Hand Delivery
___ Overnight Mail
___ Facsimile: ________________________
    Statehouse Mail

____________________________________
Sandra Evans, M.A.Ed., R.N.
Executive Director
Board of Nursing
AC.OW.AGMENT OF PROBATIONARY LICENSE
AND MONITORING CONDITIONS

I, Kenneth Paul, acknowledge that I have read and understand the following requirements. I acknowledge that I have been advised that a failure to comply with these requirements will be cause for the withdrawal of my limited license and/or denial of an application for reinstatement.

XX. a. Notify the Board of any change in my current address and telephone number within ten (10) days of that change.
XX. b. Notify the Board of the name(s) and address(es) of any and all employer(s), at the time that employment in any field is accepted.
XX. c. Request my immediate supervisor to submit performance evaluations at the following intervals:
   ___ monthly
   ___ monthly x 6, then quarterly
   ___ 6 month intervals
   ___ other
   ___ monthly x 6, then quarterly
   ___ 6 month intervals
   ___ other

XX. d. Continue in counseling, until released, and request my counselor to submit reports of my progress at the following intervals: (The counselor must be associated with a drug treatment program.)
   ___ monthly
   ___ monthly x 3, then quarterly
   ___ 6 month intervals
   ___ other
   ___ monthly x 6, then quarterly
   ___ 6 month intervals
   ___ other

XX. e. Obtain and pay for random urine drug screens at the following intervals:
   ___ monthly
   ___ monthly x 3, then quarterly
   ___ 6 month intervals
   ___ other
   ___ monthly x 6, then quarterly
   ___ 6 month intervals
   ___ other

XX. f. Meet with professional Board staff upon Board request.

XX. g. Submit self-evaluations at the following intervals:
   ___ monthly
   ___ monthly x 6, then quarterly
   ___ 6 month intervals
   ___ other
   ___ monthly x 6, then quarterly
   ___ 6 month intervals

XX. h. Attend AA/NA meetings at least 3 times per week and submit signed cards monthly to confirm attendance.

XX. i. Request 12-step sponsor to submit reports of progress at the following intervals:
   ___ monthly
   ___ monthly x 3, then quarterly
   ___ 6 month intervals
   ___ other
   ___ quarterly
   ___ 6 month intervals
   ___ other

XX. j. Attend aftercare, until released, and request my counselor to submit reports of my progress at the following intervals:
   ___ monthly
   ___ monthly x 3, then quarterly
   ___ 6 month intervals
   ___ other
   ___ monthly x 6, then quarterly
   ___ 6 month intervals
   ___ other

XX. k. Comply with all laws, rules, standards, policies and procedures pertaining to the practice of nursing.

XX. l. Abstain from the use of all mind-altering and potentially addicting drugs and alcohol, unless medically authorized in which case, I will furnish a copy of the prescription to the Board and the National Confederation of Professional Services (NCPS).

XX. m. Submit reports by the 30th day of each month in which they are due and assure that any reports to be submitted by others are submitted by the 30th of each month in which they are due.

I understand that IDAPA 23.01.202 permits the Board to withdraw my probationary limited license, without prior notice or hearing, if the Board receives information or evidence that any of the conditions listed above, including the submission of reports in a timely manner, have been violated. If the Board withdraws my probationary limited license, I understand that the license must be surrendered on demand.

I acknowledge that I have read and understand the conditions set forth above. I understand that any decision regarding the reinstatement of my license is a discretionary decision for the Board and that the Board may rely on factors other than those set forth in this document as grounds for the denial of a petition for reinstatement.

Signature:

Date:

Telephone Number:

City, State, Zip Code:

Witness:

EXHIBIT NO: A
CERTIFIED MAIL

Kenneth Paul
5867 Eastwood Place
Boise ID 83712

Dear Mr. Paul:

NOTICE OF WITHDRAWAL OF
PROBATIONARY LIMITED LICENSE

You are hereby notified that the probationary limited license, number N- 20774 issued under provisions in IDAPA 23.01.132.01. 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. Failing to abstain from all mind-altering and potentially addicting drugs and alcohol, unless medically authorized, in which case, a copy of the prescription must be sent to the Board and the National Confederation of Professional Services (NCPS). [Item “I” of the Acknowledgement of Probationary Limited License and Monitoring Conditions], as evidenced by submitting a urine sample that tested positive for ethanol and hydromorphone on June 3, 2002.

You may request hearing before the Board of Nursing regarding this withdrawal by depositing in the mail within twenty-one (21) days after receipt of this notice, a certified letter addressed to the Board of Nursing and containing a request for a hearing.

If you fail to request a hearing, the Board of Nursing will enter an Order of Denial of Licensure Reinstatement at the August 8-9, 2002 meeting.

Dated: June 12, 2002

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.
KENNETH PAUL
5867 EASTWOOD PL
BOISE, ID 83712

4a. Article Number
P090

4b. Service Type
☑ Certified
☐ Registered
☐ Express Mail
☐ Insured
☐ Return Receipt for Merchandise
☐ COD

7. Date of Delivery
8/30

5. Received By: (Print Name)

6. Signature (Addressee or Agent)
X

I also wish to receive the following services (for an extra fee):

☑ Addressee's Address
☐ Restricted Delivery

Consult postmaster for fee.

PS Form 3811, December 1994

Domestic Return Receipt
July 1, 2002

Linda Coley, RN
Assistant Director
Idaho State Board of Nursing
PO Box 83720
Boise, Idaho 83720-0061

Dear Linda:

I am writing to request a hearing before the board at their earliest convenience regarding the revocation of my license.

Sincerely,

[Signature]

Ken Paul
February 14, 2001

Kenneth Paul
5867 Eastwood Place
Boise ID 83712

Dear Mr. Paul:

Following their review of written materials and their meeting with you on February 8, 2001, the Board of Nursing members took action to issue you a limited license with conditions for 2 years upon receipt of the $90.00 fee required under IDAPA 901.04a. The conditions of limited licensure are indicated on the attached Acknowledgement of Probationary Limited License and Monitoring form. Prior to the issuance of your limited license you will need to affix your signature and return this form with the $90.00 fee. A copy of the signed form will be returned with your limited license and forms to assist you in submitting the required reports.

Motivation to assume responsibility for the submission of reports is an important aspect of recovery. Therefore, no reminders will be sent by the Board of Nursing in advance of when reports are due. You are expected to submit reports in a timely manner. Reports may be faxed (208/334-3262) to aid in their timely submission. All reports should be submitted no later than the 30th of the month in which they are due.

The probationary limited license may be withdrawn and shall be surrendered upon demand, without prior notice or hearing, in the event the Board of Nursing or its staff receives information or evidence that any of the conditions of the Probationary Limited License or the rules of the Board have been violated.

Please contact me if you have any questions concerning the Probationary Limited License or the conditions outlined in this letter.

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.
ACKNOWLEDGMENT OF PROBATIONARY LIMITED LICENSE
AND MONITORING CONDITIONS

I, Kenneth Paul, acknowledge that I have read and understand the following requirements. I acknowledge that I have been advised that a failure to comply with these requirements will be cause for the withdrawal of my limited license and/or denial of an application for reinstatement.

XX a. Notify the Board of any change in my current address and telephone number within ten (10) days of that change.
XX b. Notify the Board of the name(s) and address(es) of any and all employer(s), at the time that employment in any field is accepted.
XX c. Request my immediate supervisor to submit performance evaluations at the following intervals:
   ______ monthly _____ monthly x 6, then quarterly _____ 6 month intervals
   ______ monthly x 6, then quarterly _____ other
XX d. Continue in counseling, until released, and request my counselor to submit reports of my progress at the following intervals: (The counselor must be associated with a drug treatment program.)
   ______ monthly _____ monthly x 3, then quarterly _____ 6 month intervals
   ______ monthly x 6, then quarterly _____ other
XX e. Obtain and pay for random urine drug screens at the following intervals:
   ______ monthly _____ monthly x 3, then quarterly _____ 6 month intervals
   ______ monthly x 6, then quarterly _____ upon Board request
XX f. Meet with professional Board staff upon Board request.
XX g. Submit self-evaluations at the following intervals:
   ______ monthly _____ monthly x 6, then quarterly _____ 6 month intervals
   ______ monthly x 6, then quarterly _____ other
XX h. Attend AA/NA meetings at least 3 times per week and submit signed cards monthly to confirm attendance.
XX i. Request 12-step sponsor to submit reports of progress at the following intervals:
   ______ monthly _____ monthly x 3, then quarterly _____ 6 month intervals
   ______ quarterly _____ other
XX j. Attend aftercare, until released, and request my counselor to submit reports of my progress at the following intervals:
   ______ monthly _____ monthly x 3, then quarterly _____ 6 month intervals
   ______ monthly x 6, then quarterly _____ other
XX k. Comply with all laws, rules, standards, policies and procedures pertaining to the practice of nursing.
XX l. Abstain from the use of all mind-altering and potentially addicting drugs and alcohol, unless medically authorized in which case, I will furnish a copy of the prescription to the Board and the National Confederation of Professional Services (NCPS).
XX m. Submit reports by the 30th day of each month in which they are due and assure that any reports to be submitted by others are submitted by the 30th of each month in which they are due.

I understand that IDAPA 23.01.202 permits the Board to withdraw my probationary limited license, without prior notice or hearing, if the Board receives information or evidence that any of the conditions listed above, including the submission of reports in a timely manner, have been violated. If the Board withdraws my probationary limited license, I understand that the license must be surrendered on demand.

I acknowledge that I have read and understand the conditions set forth above. I understand that any decision regarding the reinstatement of my license is a discretionary decision for the Board and that the Board may rely on factors other than those set forth in this document as grounds for the denial of a petition for reinstatement.

__________________________________________
Signature

5867 6B37WOOO PC

Address

BO159, ID 83712

City, State, Zip Code

__________________________________________
Witness

Acknowledged99.doc
Idaho Board of Nursing
LIMITED LICENSE

N-20774
RN XXX LPN ______

Kenneth Paul
5867 Eastwood Pl.
Boise ID 83712

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

Expires: 02/22/03
(See Reverse)

LIMITED LICENSE - Receipt

Receipt No: ____________ 29494
Amount ____________ $90.00

RN XXX LPN ______

DATE ISSUED ____________ 2/22/01

BY ________ NED ________
BEFORE THE BOARD OF NURSING

STATE OF IDAHO

In the Matter of the Probationary Limited License of:

KENNETH PAUL, N-20774,

Respondent.

Case No. 94-24

NOTICE OF HEARING AND APPOINTMENT OF HEARING OFFICER

TO: Kenneth Paul
5867 Eastwood Place
Boise, Idaho 83712

NOTICE OF HEARING

The Board, by and through its employees and/or agents, withdrew Respondent’s probationary limited license on June 12, 2002, for noncompliance with the conditions of probation and monitoring. Respondent timely requested a hearing before the Board on the issue of withdrawal of his probationary limited license.

Accordingly, pursuant to the provisions of title 54, chapter 14, Idaho Code, and the duly promulgated rules of the Idaho State Board of Nursing, you are hereby notified and requested to appear before the Board on the 8th day of August, 2002, at 3:00 p.m. (MST) at the West Coast ParkCenter Suites, 424 E. Parkcenter Blvd., Boise, Idaho, 83706 in the Cottonwoods - Room I-II, and from time to time thereafter as may be required by the Board, to show cause, if any, why the Board should not affirm the withdrawal of your probationary limited license and issue an Order of Denial of Licensure Reinstatement.

You are further notified that you may appear with or without the assistance of an attorney on the day and at the time and place specified in this Notice of Hearing and present testimony with respect to the issue of the withdrawal of your probationary limited license, and the noncompliance with the terms of probation.
present testimony with respect to the issue of the withdrawal of your probationary limited license, and the noncompliance with the terms of probation.

All persons requiring assistance pursuant to the Americans with Disabilities Act in order to participate in or understand the hearing must request such assistance ten (10) days in advance of the hearing by contacting the Board Office at the number or address listed below.

The hearing will be conducted pursuant to 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. Copies of the Administrative Procedure Act and the Idaho Rules of the Administrative Procedure of the Attorney General may be obtained at the Idaho State Law Library.

All original official documents must be filed with the Idaho State Board of Nursing, 280 North 8th Street, Suite 210, Boise, Idaho, 83720-0061; telephone (208) 334-3110; FAX (208) 334-3262. Copies must also be provided to the Board’s prosecuting attorney, David W. Lloyd, Deputy Attorney General, P.O. Box 83720, Boise, Idaho, 83720-0010; telephone (208) 334-2400; FAX (208) 334-2830.

NOTICE OF APPOINTMENT OF HEARING OFFICER

The Board of Nursing, pursuant to its authority under Idaho Code § 67-2609(a)(5) to conduct disciplinary hearings, hereby appoints as the duly authorized hearing officer in this matter the following individual:

Kay Manweiler  
Deputy Attorney General  
P.O Box 83720-Statehouse  
Boise, ID 83720-0010  
Telephone (208) 334-2400  
FAX (208) 334-3107
In addition to filing all original official pleadings, briefs, motions and other documents directly with the Board of Nursing as specified in the Notice, a true and correct copy of each such document must also simultaneously be submitted to the hearing officer at the above address.

The hearing officer shall have all power and authority granted such hearing officers by title 67, chapter 52, Idaho Code (the Idaho Administrative Procedures Act) and the Idaho Rules of Administrative Procedure promulgated by the Idaho Attorney General, codified at IDAPA 04.11.01. et seq.

After conducting any evidentiary hearing(s) necessary in this matter, the hearing officer shall issue Findings of Fact, Conclusions of Law and a Final Order as provided by Idaho Code § 67-5246(1) and IDAPA 04.11.01.740.

DATED this 18th day of July, 2002.

STATE OF IDAHO
BOARD OF NURSING

By ______________________
SANDRA EVANS, M.A.Ed., R.N.
Executive Director
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this __18th__ day of __July___, 2002, I caused to be served a true and correct copy of the foregoing NOTICE OF HEARING AND APPOINTMENT OF HEARING OFFICER addressed as follows:

David W. Lloyd  
Deputy Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

U.S. Mail, postage prepaid

Certified U.S. Mail, return receipt

Hand Delivery

Overnight Mail

Facsimile:

Statehouse Mail

X

Kenneth Paul  
5867 Eastwood Place  
Boise, Idaho 83712

X U.S. Mail, postage prepaid

X Certified U.S. Mail, return receipt

Hand Delivery

Overnight Mail

Facsimile:

Statehouse Mail

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