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

RICHARD RAINS
N-22017

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

STATE OF IDAHO

In the Matter of:

Richard Rains,
License No. N-22017,
Respondent.

Case No. 00-058

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 Richard Rains ("Respondent") is a duly licensed nurse in the State of Idaho holding License No. N-22017.

2. On or about November 16, 2000, the Board received a complaint from Respondent’s employer, West Valley Medical Center, that Respondent had been terminated for diversion of narcotics. A true and correct copy of the complaint and supporting documentation sent to the Board by West Valley Medical Center is attached hereto as Exhibit 1.

3. On or about November 20, 2000, the Program for Recovering Nurses notified the Board that Respondent was no longer compliant with his contract.

4. On or about January 5, 2001, Respondent voluntarily surrendered his license, admitting that the allegations of the Nursing Practice Act, if proven at a disciplinary hearing, would constitute grounds for discipline. A true and correct copy of the voluntary surrender form signed by Respondent is attached hereto as Exhibit 2.
5. Respondent knowingly and freely waived his 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)(e) and IDAPA 23.01.01.100.09.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. N-22017 issued to Respondent Richard Rains is

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Revoked

Suspended _____ days/year(s) _____ indefinitely

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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 he present the following information to the Board with his application for reinstatement:

1. Evidence of abstinence from the use of non-medically prescribed drugs and alcohol;

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER - 2
2. Documentation that he is rehabilitated and competent to practice nursing by submitting:
   a. A comprehensive drug/alcohol evaluation completed by a licensed 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 8th day of February, 2001.

IDAHO BOARD OF NURSING

By Charles Moseley, CRNA
Chair

NOTICE OF DUE PROCESS RIGHTS

NOTE: THIS NOTICE IS PROVIDED SOLEY 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.
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of February, 2001, I caused to be served a true and correct copy of the foregoing by placing a copy thereof in the United States Mail, postage prepaid, certified mail, return receipt requested, and regular mail, postage prepaid, addressed to:

Richard Rains
645 Dooley Lane
Nampa, ID 83686

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

Sandra Evans, M.A.Ed., R.N.
Executive Director

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

Date: 2/13/01

Postage $0.42
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)

RICHARD RAINS
645 DOOLEY LANE
NAMPA ID 83686
Linda Coley
Idaho Board of Nursing
PO Box 83720
Boise Idaho, 83720-0061

Dear Linda;

Rick Rains RN, Idaho License # N22017, an employee of West Valley Medical Center in Caldwell, was terminated for theft of Narcotics from this facility on November 14, 2000. This termination was a result of two occurrences of theft of Narcotics (Demerol). The first instance occurred at the end of July and early August, 2000. The result of the first incident was that Rick admitted that he had an addiction to Demerol and had stolen Demerol or diverted it from patients. He was referred to the Board of Nursing for participation in a rehabilitation program administered by PRN. I met with Rick regarding that occurrence on August 4, 2000. From that meeting we developed a plan for disciplinary action that included immediate termination for any further theft or diversion of controlled medications from this facility. After about six weeks of treatment and a month of leave from duty, the program administrators at PRN released Rick to return to work in the Emergency Room with restrictions for access or administration of controlled medications. Rick agreed to these conditions and was allowed to return to work. In addition, we changed his shifts from PM to day shift in order to decrease the chances that the problem would reoccur.

On November 14, 2000, Rick was working in the Emergency Room with his Supervisor, Barbara Fogg. She observed that he had Demerol in his possession. When Barbara questioned Rick about where he obtained it, he stated that he had taken it from the “Automated Medication dispensing system” (he later admitted to using another ER Nurses access code which he had obtained with out that nurses knowledge). Barbara immediately notified me of the occurrence. I called the Director of Human Resources and we met with Rick and Barbara in the ER. The conditions addressed in the Disciplinary Action of August 4, 2000, were reviewed. Rick admitted to us that he took the Demerol
found in his possession on November 14th. At the conclusion of the meeting Rick was terminated.

I notified John Southworth of PRN about the situation on 11/14/00 and contacted your office by telephone on 11/15/00. This letter is to follow up that telephone notification.

If you have any questions that I can answer or if I can be of any further assistance to you on this matter. Please feel free to contact me at the numbers listed above.

Sincerely:

Rick E. Skinner

CC: John Southworth, PRN
    Edith Irving, CNO West Valley Medical Center
    Taylor Nielson, West Valley Pharmacy
    Barbara Fogg, ER supervisor
    Leslie Muir, Director of Human Resources
VOLUNTARY SURRENDER OF LICENSE
IN LIEU OF FORMAL DISCIPLINARY HEARING

I, Richard W. Rains, hereby voluntarily surrender my license to practice nursing in the State of Idaho and will immediately discontinue the practice of nursing in this state. 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.

2. I understand that I have the following rights, among others: the right to representation by counsel, the right to a formal hearing, to reasonable notice of such hearing, to present evidence and testimony on my behalf, to compel the testimony of witnesses, and to cross-examine the witnesses against me; and

3. I waive all such rights.

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 or any other matters brought before the board.

5. I understand that, pursuant to Idaho Code §54-1413(2)(a), the Board of Nursing will enter an order either revoking or suspending my license to practice nursing based upon this voluntary surrender of my license.

6. In surrendering my license to practice nursing, I am not making any admissions; however, I agree that the allegations against me, if the same had been proven true in a disciplinary hearing, would constitute grounds for the imposition of a disciplinary action against me.

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

8. 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.

9. I understand that to obtain a license to practice nursing in the state of Idaho, I must re-apply to the Idaho State Board of Nursing pursuant to the provisions of Title 54, Chapter 14, Idaho Code and all applicable rules and orders entered by the Board.

10. 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.

DATED: 1/5/01

Signature of Licensee

Address

City, State, Zip

DATED: 11/5/01

Signature of Witness

Exhibit 2
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State of Idaho
Board of Nursing

This is to certify that:

RICHARD W. RAIMS
640 S. DOUGLAS AVE.
RENA, ID 83666

has complied with the requirements of the law and is entitled

to practice as a LICENSED PROFESSIONAL NURSE (RN)

Valid when signed by licensee

License Number
N 00937

Expires: August 31, 2001

By ______________

DATE
9-27-99

PLEASE KEEP THE BOARD INFORMED OF NAME AND ADDRESS CHANGES.

RECEIPT NO. 12474