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

JOAN WHITING
PN-3634
BEFORE THE BOARD OF NURSING

STATE OF IDAHO

In the Matter of: 
Joan Myrtle Innes Whiting,
License No. PN-3634,
Respondent. 

Case No. 97-045

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 Joan Myrtle Whiting ("Respondent") is a duly licensed nurse in the State of Idaho holding License No. PN-3634.

2. On or about November 17, 1997, the Board received a complaint from the American Falls Police Department, that Respondent had been arrested for prescription fraud. A true and correct copy of the complaint and supporting documentation sent to the Board by the American Falls Police Department is attached hereto as Exhibit 1.

3. On or about November 25, 1997, 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 2.

4. On or about December 20, 1997, Respondent signed a contract for monitoring with the Program for Recovering Nurses (PRN).

5. On or about October 10, 2001, the PRN Program Coordinator submitted a letter of Non-Compliance to the Board indicating that Respondent had continued to use Ultram in violation of her Contract for Monitoring. A true and correct copy of the letter of non-compliance is attached hereto as Exhibit 3.
6. Following their regular meeting on October 19, 2001, the PRN Advisory Committee issued a Report of Non-Compliance for failure to maintain full compliance with terms of the Contract for Monitoring. A true and correct copy of the Report of Non-Compliance is attached hereto as Exhibit 4.

7. On or about October 22, 2001, a Notice of Withdrawal of Limited License was issued based on failure to maintain full compliance. A true and correct copy of the Notice of Withdrawal is attached hereto as Exhibit 5.

8. 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) (e) and 23.01.01.100.06.

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-3634, issued to Respondent Joan Myrtle Innes Whiting is

✓ Revoked

_____ Suspended _____ days/year(s) _____ indefinitely

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER - 2
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:

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 5th day of November, 2001.

IDAHO BOARD OF NURSING

By Charles Moseley, CRNA
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 13th day of November, 2001, 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:

Joan Whiting  
721 Dogwood  
Pocatello Idaho 83201

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
1. On October 21, 1997, MR. ROD TUCKER, owner/manager of Rockland Pharmacy, notified me of a prescription fraud he believed had been ongoing.

A. During approximately July 1997, a woman called as JAN from DR. GROOM'S Pocatello office, filling a prescription for a Power County patient identified as MABLE FARNSWORTH (2632 Olive Rd.). Later, a woman identified herself as JOANN INNIS called to have that prescription, a large part of which was Vicodin, sent to her. This was done via U.S. mails to INNIS at P.O. Box 2969, Pocatello, ID 83206.

B. The Pharmacy bill, which remains unpaid, and the Certified Mail receipt are attached as evidence.

C. MR. TUCKER became suspicious, contacting DR. GROOM and MRS. MABLE FARNSWORTH. They are not aware of a JOANN INNIS nor a "JAN" at DR. GROOMS having ordered medication.

2. MS. INNIS has called in prescriptions from DR. GROOM and DR. BAKER, also practicing in Pocatello. When MR. TUCKER checked with these offices, they found that neither office had issued a prescription to any such patient.

A. On October 18, 1997, MS. INNIS again called the Pharmacy for a prescription on Vicodin and Hydrochlorothiazide. MR. TUCKER called DR. GROOM, who stated he had no patient by the name of INNIS.

B. TUCKER notified the Board of Pharmacy of his suspicions.

C. On October 20, 1997, a woman identifying herself as JOANN INNIS entered the Pharmacy. She stated that she had no I.D. with her. TUCKER allowed her to sign for the prescriptions and then followed her out covertly to get her license plate number. When she noticed he had followed her, "INNIS" backed completely out of the parking lot, toward Harrison, in an effort to keep TUCKER from getting a plate number.

D. TUCKER obtained the Idaho plate number, being 1B54760. I ran this plate number through Idaho files, obtaining the registration to a blue '88 Nissan Sentry,
four door, belonging to ALVIN L. or JOAN I. WHITING of 721 Dogwood, Pocatello.

E. A subsequent DMV/license check on MS. WHITING revealed information on JOAN INNES WHITING, of 721 Dogwood, Pocatello.

F. I ordered a photo lineup from Idaho D.M.V containing MS. WHITING'S photo. On October 27, 1997, I had MR. TUCKER and Pharmacist KELLI LONG view this lineup. MR. TUCKER could not pick WHITING out, as he stated he was trying to keep from being over obvious when she came in. MS. LONG, having dealt with her before and being present on the 20th when she was in, immediately picked WHITING out of the lineup, indentifying her as the person calling herself JOANN INNIS.

3. I obtained a copy of the Patient Information Sheet on Vicodin (aka Hydrocodone), attached, which is a schedule IV controlled substance. I also obtained a copy of the Pharmacy's 3rd party sheet that WHITING signed on October 20, 1997.

4. KELLI LONG stated she has been at the Pharmacy when WHITING, posing as INNIS, has made prescription purchases in the past, including this incident.

   A. WHITING has called to fill a prescription for Vicodin and other drugs for her mother-in-law, MABLE FARNSWORTH in the past. When TUCKER and LONG became suspicious, they called the FARNSWORTHS at Olive Rd., discovering "Mable" does not exist at that address, and they do not know a JOANN INNIS.

   B. WHITING, in those past transaction, referred to MABLE FARNSWORTH on Olive Rd as her mother-in-law.

5. On October 23, 1997, I was contacted by INVESTIGATOR G.M. DOMENY of the Idaho Board of Pharmacy. MS. WHITING is a Registered Nurse in this state. INV. DOMENY included a history of MS. WHITING for prescription purchases of similar drugs with legitimate prescriptions. WHITING has a history of Vicodin type drug purchases, such as Hydrocodone.

   A. These profiles are attached. A profile from Super Save Drug in Pocatello has yet to be received.

   B. MS. WHITING worked as a nurse at Hillcrest Convalescent Home in Pocatello until early 1996. A drug diversion scam was uncovered, in which Tylenol with Codline had been taken and regular Tylenol substituted. WHITING was the main focus of the investigation and ordered for a U.A. The day this was uncovered MS. WHITING obtained a legitimate
prescription for these type drugs from a DR. HOWELL of I.S.U. Family Medical Practice. MRS. HOWELL, wife of DR. HOWELL, served as an R.N. with WHITING at Hillcrest.

C. WHITING'S license (R.N.) was temporarily suspended.

6. Turned over to the Power County Prosecutor for Arrest Warrant review.

Det./Lt. J. Morse, Investigations
Earlier today I spoke with Dr. Whiting. She said if a release was going to be sent from PENV, she asked me not to send any information regarding the ultram to PENV.

I later spoke with her regarding a fax from PENV, requesting information. She asked me to cover the point on the chart notes about the ultram. I told her I would speak to Dr. Gilbert to see what I could do. She told me not to do that and she did not want to be dishonest. She also stated that the PENV group would be mad that she did not reprint the ultram. If there is any thing else lets me know.

[Signature]
Voluntary Suspension of License

11-20-97

I, Joan I Whiting, hereby admit fraudulent obtaining of RX for self use. License # PNL-3634.

I discontinue the practice of nursing at this time.

Joan I Whiting
721 Dogwood
Pocatello, ID 83201

With: Alvia Whiting

P.S. There are some erroneous statements in the complaint given to me ie - I am not an R.N. - My license was never suspended. etc.
October 10, 2001

Sandra Evans
Idaho State Board of Nursing
P.O. Box 83720
Boise, ID 83720-0061

RE: Joan Whiting

Dear Ms. Evans,

This letter is to inform you that we are not currently advocating for Ms. Whiting due to non-compliance with her PRN contract.

We were recently contacted by Dr. Don Gilbert’s office regarding their concerns with Ms. Whiting’s use of Ultram. They inquired as to whether Ms. Whiting should be taking this particular medication. We advised their office that Ms. Whiting was not to be taking Ultram, and had been advised of this. We were then informed by their office that Ms. Whiting had called on October 8 to request a refill on a prescription for Ultram, and had filled prescriptions for this medication in the recent past.

Dr. Gilbert’s office supplied us with a list of the medications that Ms. Whiting had filled since June 2001. This report showed that Ms. Whiting filled prescriptions for Ultram on June 25, September 5, and September 25. As stated earlier, Ms. Whiting attempted to gain an additional refill for Ultram on October 8. A copy of this pharmacy report is enclosed for your review.

We were also informed by Dr. Gilbert’s office assistant, LeAnna, that Ms. Whiting contacted them on the morning of October 10 to inform them that she had signed a release allowing PRN to obtain information from. She also asked LeAnna to refrain from releasing any information about the Ultram prescriptions, as she could lose her license if PRN were informed of this. LeAnna informed Ms. Whiting that she would have to review the release that was signed in order to determine whether or not that information could be released. LeAnna provided our office with a written statement detailing her phone conversation with Ms. Whiting. A copy of this document is provided for your review.

For this reason, we are turning Ms. Whiting over to the Board of Nursing for further action. If you have any questions or concerns, please feel free to contact me or Theresa Bruening, PRN Compliance Monitor.

Sincerely,

[Signature]

John Southworth, CADC, AIS
PRN Coordinator
(208) 891-4726 cellular
(800) 386-1695 toll free

cc: Joan Whiting

An Alternative to Disciplinary Action program offered by the Idaho Board of Nursing.
TO: SANDRA EVANS, MAEd, RN  
    Executive Director  
    Idaho Board of Nursing  

FROM: Karen Ellis, RN, Chairperson  
      Program for Recovering Nurses  

DATE: October 19, 2001  

The file of Joan Whiting was reviewed at the Advisory Committee meeting on October 19, 2001, and found to be in non-compliance of recommendations because of the following:

   Failure to comply with all terms and conditions of the Contract for Monitoring

The Committee made the following recommendation(s):

    Refer to Board for disciplinary action.

File reviewed by Executive Director:

[Signature]  

10/19/01  

Action Recommended to Board: [Initials]

An Alternative to Disciplinary Action Program offered by the Idaho Board of Nursing

EXHIBIT NO: 4
Dear Ms. Whiting:

NOTICE OF WITHDRAWAL OF LIMITED LICENSE

You are hereby notified that the limited license, number PN-3634, 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 by continuing your use of Ultram.

Your file will be reviewed by the members of the Board of Nursing at their meeting on November 8-9, 2001 for possible disciplinary action. You will be notified following the meeting of their decision. 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 22, 2001

SANDRA EVANS, MAEd, RN
Executive Director