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

DUSTINE WYMAN
PN-12298

Idaho Board of Nursing – PO Box 83720 – Boise, Idaho 83720-0061 – (208) 334-3110
Dustine Wyman  
1720 N Aronmink Way  
Meridian ID 83642

Dear Ms. Wyman:

During their meeting on October 25-26, 2007, the Board of Nursing members took action to approve the Findings of Fact, Conclusions of Law and Final Order. Enclosed is a copy of the Final Order revoking your practical nurse license for a two (2) year period.

Please be advised that you may not practice nursing in the State of Idaho during the time your license is revoked. In accordance with IDAPA 23.01.01.120, you may apply for reinstatement two (2) years following revocation of license.

Sincerely,

SANDRA EVANS, MAEd, RN
Executive Director

SE:Ihc
enclosure

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: DUSTINE S. WYMAN,
License No. PN-12298, Respondent. )

Case No. BON 07-068 FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

Having reviewed the documents appended hereto, the Idaho State Board of Nursing (the “Board”) enters the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Dustine S. Wyman (“Respondent”) has been licensed by the Idaho State Board of Nursing under License No. PN-12298 to engage in the practice of nursing in the State of Idaho.

2. On or about September 11, 2007, the Board received a report of violation of the Nurse Practice Act from Respondent’s employer, Idaho Department of Health and Welfare, Idaho State School and Hospital, in Nampa, Idaho. A redacted copy of the report of violation is attached hereto as Exhibit A. The report indicated that Respondent appeared impaired while on duty and later admitted to taking patients’ Vicodin. A redacted copy of Respondent’s September 9, 2007, statement admitting taking patients’ Vicodin is attached hereto as Exhibit B.

3. On October 1, 2007, Respondent voluntarily surrendered her license and hand wrote on the Voluntary Surrender form: “I have no intentions of pursuing a career in nursing ever. I also do not want to participate in PRN program.” A true and correct copy of Respondent’s Voluntary Surrender of License is attached hereto as Exhibit C.

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.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER - 1
2. Respondent's Idaho License No. PN-12298 is conditioned upon her complying with the laws and rules of the Idaho State Board of Nursing.

3. Respondent diverted drugs from her employer without prior consent or authorization from her employer.

4. Respondent possessed and took prescription drugs while at work which had not been prescribed to her and was impaired at work.

5. Respondent's acts as set forth above constitute violations of the laws and rules governing the practice of nursing in the State of Idaho; specifically:
   a. 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);
   b. Board Rule 101.03.e (a nurse shall not practice while the ability to practice is impaired by alcohol or drugs);
   c. Board Rule 101.04.e (a nurse shall not obtain, possess, furnish or administer prescriptions drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs); and
   d. Board Rule 101.05.f (a nurse shall respect the property of the patient and employer and shall not take or divert drugs without prior consent or authorization).

6. Pursuant to Idaho Code § 54-1413(3)(a), Respondent's voluntary surrender of her license empowers the Board, without a hearing, to revoke or suspend Respondent's license and/or impose such conditions, limitations, or restrictions on her license as the Board in its discretion may deem appropriate.

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

Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause being shown, it is hereby ordered that:

1. License No. PN-12298 issued to Dustine S. Wyman is hereby:
   ___ X. Revoked: 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.
   ___ 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.

2. At such time as Respondent requests reinstatement of licensure, she shall comply with the requirements of Idaho Code § 54-1411(3) and IDAPA 23.01.01.120. This will include, but is not limited to, providing the following information to the Board:
   a. Evidence of abstinence from the use of non-medically prescribed drugs and alcohol;
   b. Documentation that she is rehabilitated and competent to practice nursing by submitting:
      i. A comprehensive drug/alcohol evaluation completed by a qualified health care provider at the time of application for reinstatement.
      ii. A detailed summary of employment since licensure revocation or suspension; and
      iii. Documentation of activities engaged in to address drug/alcohol issues, to include documentation of an active recovery program.

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

   This order is effective immediately.

   DATED this 30TH day of OCTOBER, 2007.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER - 3
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 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 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 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.
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30TH day of OCTOBER, 2007, I caused to be served a true and correct copy of the foregoing by the following method to:

Dustine S. Wyman
1720 N. Aronmink Way
Meridian, ID 83642

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

Karl T. Klein
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

☐ U.S. Mail
☐ Hand Delivery
☐ Certified Mail, Return Receipt Requested
☐ Overnight Mail
☐ Facsimile: ____________________________
☒ Statehouse Mail

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

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER - 5
FAX TRANSMITTAL SHEET

TO: Idaho Board of Nursing

FROM: HEALTH INFORMATION MANAGEMENT
PHONE: 208-442-2612 ext. 553
FAX: 208-457-3408

DATE: 9/10/07

RECIPIENT'S FAX NUMBER:
(208) 334-3262

RECIPIENT'S PHONE NUMBER:
(208) 334-3110

RE: LPN working impaired & weak

NOTES/COMMENTS:

Statement of Privacy/Confidentiality
The documents sent in this fax transmission are intended for the person or entity to which they are addressed in this cover sheet. The information in these documents may be privileged, confidential or otherwise protected from disclosure. All persons are advised that they may face penalties under state and federal law for sharing this information with unauthorized individuals. If you received this information in error, please destroy immediately and call this office at (208-442-2612 ext.553).
To Whom It May Concern:

On 9/9/07 @ 0916 (this time is according to my cell phone), I received a call from K#. K# stated that she had just come from the Pine unit because some of the staff had called the switchboard stating the nurse "was not acting right." I asked K# what was meant by that. K# stated that staff felt Dustine was moving very slow and they reported that she was having a hard time discriminating between nasal spray and eye ointment. I asked K# if she had seen Dustine that morning and she said she had and that she really felt something was wrong with Dustine. I told her I would be in. I then called M# L#, RN, who is Dustine's supervisor, and asked her to meet me at work.

I arrived at the State School approximately 20 minutes later, and met M# in the parking lot. We went into her office on Pine and pulled the Reasonable Suspicion policy and copied the forms associated with the policy. We went into the medication room and Dustine was not in the room at that time, so we waited for her to return. During this time M# called the campus nurse to come take over the care of the building. K# came into the medication room on Pine just after M# finished talking to R#. J# (R#) was the campus nurse, however the direct care staff called K# and asked her to come help with medication administration because they were worried about Dustine passing medications. Within 5 minutes Dustine returned to the medication room and when she saw M# and I she asked what we were doing. I asked her if she would please give the building keys to K# and walk with M# and I up to Administration. Dustine agreed and give K# her keys.

While we were walking up to the Administration building Dustine again asked what was wrong and I explained that some of the staff on the building were worried about her passing medications. I told her we could talk more when we were at the administration building. I asked her how the morning had gone, and she stated it had been busy, and that she had been about 30 minutes late, and that had not helped how her morning had gone.

We then stopped at the switchboard to get keys for classroom B. When we got to classroom B we explained we were there because the staff reported she was having difficulty passing medications. Dustine asked what kinds of difficulties they had reported. I explained that someone stated she was having a difficult time discriminating between nasal spray and eye ointment. I also explained that one of the nurses reported that she seemed very sleepy while she was trying to hang/start a client's feeding.
Dustine then stated that she had not been sleeping well lately. She went on to explain that the reason she had not been sleeping well was

While she was talking and crying M and I were observing her per the check list. Her appearance; speech; awareness; balance; walking and turning appeared to be normal. Her eyes were slightly red, however she had been crying.

We asked Dustine to wait in the hall for a few minutes, and at this time M L and I decided that due to the reports of the direct care staff and the other LPN that there was cause to test. During this time I did hear the toilet flush in the bathroom in the hall.

I called the switchboard and asked them to call the drug testing company to come out to administer a drug and alcohol test. This was at 10:27am. M left classroom B and I waited with Dustine. During this time Dustine did not say much, she was crying and asking how long it would take to get the drug testing done.

At approximately 11:05am I called the Pine unit LPN station to ask how the medication pass was going and to see if they needed any additional help. J answered the phone and stated that she and K were doing fine with the medication pass, but that there was a problem with the narcotic count. I asked her what was wrong with the count, and she said six hydrocodone were missing. I asked which six were missing, and R stated that J.C., C.H., P.J., and T.G. all had some hydrocodone missing.

When I got off the phone I told Dustine that the narcotic count was not correct on her unit and that there was hydrocodone missing. Dustine looked and me and stated that she had no idea why there were missing narcotics. I then asked her why she had not done the narcotic count when she got on shift that morning. Dustine stated that she had been late, and she had been working with one of the clients who had a seizure. Then I stated that for J.C. and C.H. their routine doses had been punched out however their other routine medications had not yet been given, and I asked her again where the medications were. Dustine then stated "I took them". I asked her what she meant when she said she took them. I asked if that meant they were in her pocket or if she had ingested them. Dustine then stated that "I swallowed them, they are in my belly". I asked her how many she had taken and when she had taken them. Dustine stated she had taken 4 of the hydrocodone. She stated "I gave T.G. his two because I know he needs them for pain, and I took the other four." Dustine went on to say she had taken them that morning. I thanked her for being forthcoming with me that morning, and she then stated "I had to, I got caught".
I then asked her about a time 4-6 weeks prior to this time when she had forgotten, on more than one occasion, to sign for hydrocodone that she stated had been given to different clients. Dustine stated that she did remember the time. I asked her if she had taken that medication, to which she stated “no, I swear I would never have done that.” I asked her if she would be willing to write down what medications she had taken that day from the client on the back of the form we were using for the drug testing. She stated she would and proceeded to do so. At that time I again called the switchboard to see when the drug testing company would be in. The switchboard called and said she would be in any time. Just a few minutes later the representative from the drug testing company arrived.

Dustine was administered the breath alcohol test. Then was asked to provide urine for the drug test which she attempted to do. She was unable to provide enough urine at her first attempt, so she drank 3 glasses of water, and asked if she could go smoke. S. C. stated it was OK for her to smoke, so I asked M. L. to meet us outside the building with Dustine’s things. Dustine and I met M. L. outside and went to the smoking area beside Aspen. While Dustine was smoking she became very drowsy. At one point, when she was about ½ way through her second cigarette I asked her if she was awake. She was leaning to one side and her hand was dropping and it looked if her cigarette was going to fall out of her hands. Her speech became very slow and slurred. When Dustine was finished with her second cigarette the three of us walked back up to administration. While we were walking Dustine was very unsteady on her feet. She was walking from side to side, most of the time with her eyes closed, and she was walking very slowly. Her eyes became increasingly red.

When we got back to classroom B S. C. was waiting, and Dustine proceeded to the bathroom. I became very concerned at one point when I knocked on the door to see if she was alright and she did not respond. She came to the door with some urine in a cup, and it was felt that there was not quite enough urine, so Dustine was going to try again. At this point S. C. stated that she had 3 hours in which to provide urine or if urine could not be provided then it would be a positive test. Dustine stated she didn’t know why it mattered “it was going to be positive anyway”. During this time she was slightly swaying while standing with the urine and her eyes were half way open. At that point I told Dustine that I was concerned with how unsteady she was becoming. She stated that she was fine and was going to try voiding again. I asked her to please leave the door unlocked so we could get in to assist her if needed. I then went and called S. B. We discussed the morning’s events and at that point she decided that the police department should be notified about the theft of the narcotics.

The police department was called and I reported the medication theft. I returned to Dustine and told her that the police department had been notified and were on their way to the State School. She became very tearful and we returned to
classroom B. She had just finished providing some more urine, which was measured by S____C____ and she stated she had enough urine at that time.

An officer from the police department arrived, and I stepped in the hall to speak with her about the days events. Then I went with her back into classroom B and she sat down at the end of the table, and asked Dustine what was happening. Dustine explained the situation with [______] and that she had taken the medication. The officer asked us to leave the room, and M____L____ and I did so, waited in the hall way.

When they were finished the police officer stated that she was not under arrest at this time because she was under the influence, and that she was going to write up a report and would forward it to the prosecuting attorney's office and that a warrant for her arrest would be issued at that time. We were free to take her home. M____L____ and I then dropped her off at her home.
This morning on 9/19/07 I took __________ scheduled and pren norelco. I also took __________ scheduled norelco. I also took __________ and pren norelco.

__________________________ 9/19/07

Witness [Handwritten] 9/19/07
RULE 132.04.
VOLUNTARY SURRENDER OF LICENSE

I, Dustine Wyman, by affixing my signature hereto, acknowledge that:

1. I admit that I have engaged in the following conduct: 
   Taking a narcotic

2. I understand that the admitted facts constitute grounds for disciplinary action pursuant to the Nursing Practice Act, Idaho Code §54-1413(1) and the rules of the Board, IDAPA 23.01.01, et seq. I also understand that the Board of Nursing has the authority to accept this voluntary surrender pursuant to Idaho Code §54-1413(2)(a).

3. I am aware that, without my consent, no legal action can be taken against me, except pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code.

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

5. I waive all such rights, including the right to a formal disciplinary hearing.

6. I also waive the right to challenge the board for bias in the event that charges concerning these admitted facts or any other matter involving my license are brought before the board.

7. In lieu of a formal disciplinary hearing, I hereby voluntarily surrender license number PN-12345 and will immediately discontinue the practice of nursing in Idaho.

8. As required by Board of Nursing Rule 132, IDAPA 23.01.01.132.04, I agree to enter treatment immediately, to participate in a monitoring program and to resume the practice of nursing only at such time as a conditional limited license has been issued to me.

9. I understand that Board of Nursing representatives will, if questioned, report the status of my license as "surrendered."

DATED: 10-01-07

/Dated by Licensee
1720 N. Arrowhead Way
Address
Meridian, ID 83646
City, State, Zip

/Dated by Witness
6/99-PRN

Exhibit C

Page 1 of 1
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MERIDIAN ID 83642