

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
Heber M. Wells Building
160 East 300 South
P O Box 146741
Salt Lake City UT 84114-6741
Telephone: (801) 530-6628

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF :
SUZANNE AUER COOPER : NOTICE OF AGENCY ACTION
TO PRACTICE AS A :
REGISTERED NURSE :
IN THE STATE OF UTAH : Case No. DOPL-2008-247

THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING TO
Suzanne Auer Cooper ("Respondent"), Murray UT
84107.

The Division of Occupational and Professional Licensing ("the Division") hereby files this Notice of Agency Action. Said action is based upon the Verified Petition of Irene Woodford, Investigator, State of Utah, a copy of which is attached hereto and incorporated herein by reference.

The adjudicative proceeding designated herein is to be conducted on a formal basis. **Within thirty (30) days of the mailing date of this Notice, you are required to file a written response with this Division.** The response you file may be helpful in clarifying, refining or narrowing the facts and violations alleged in the Verified Petition. Your written response should be mailed to the following address: Division of Occupational and Professional Licensing, Attn Disciplinary Files, 160 East 300 South, PO Box 146741, Salt Lake City UT 84114-6741.

You may represent yourself or be represented by legal counsel, at your own expense, at all times while this action is pending. Your legal counsel shall file with the Division an Entry of Appearance and until that Entry of Appearance is filed, the presiding officer will deal directly with you.

You are entitled by law to an evidentiary hearing to determine whether your license to practice as a registered nurse in the State of Utah should be subject to a disciplinary action.

Unless otherwise specified by the Director of the Division, the Nursing Board will serve as fact finder in the evidentiary hearing. You will be notified by separate notice of the date, time, and place of that evidentiary hearing and of any other hearings.

During the evidentiary hearing, you will have the opportunity to present evidence, argue, respond, conduct cross-examination and submit rebuttal evidence to the fact finder. After the hearing, unless otherwise specified by the Director of the Division, the fact finder will issue findings of fact, conclusions of law and a recommended order to the Director of the Division of Occupational and Professional Licensing for his review and action.

The presiding officer for purposes of conducting hearings will be J. Steven Eklund, Administrative Law Judge, Department of Commerce, who will preside over any evidentiary issues and matters of law or procedure. If you or your attorney have any questions as to the procedures relative to the hearing, Judge Eklund can be contacted at P O Box 146701, Salt Lake City, UT 84114-6701. His telephone number is (801) 530-6648.

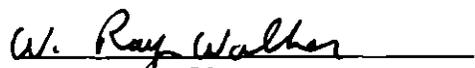
Counsel for the Division in this case is Mitchell Jones, Assistant Attorney General at (801) 366-0310 or P O Box 140872, Salt Lake City, UT 84114-0872. Within ten (10) days after the filing of your response, Mr. Jones will request the scheduling of a prehearing conference.

You, or if you have an attorney, your attorney, may attempt to negotiate a settlement of the case without proceeding to a hearing by contacting Mr. Jones.

Should you fail to timely file a response, as set forth above, or fail to attend or participate in any scheduled hearing in this case, including prehearing conference(s), you may be held in default without further notice to you. If you are held in default, the maximum administrative sanction consistent with the terms of the Verified Petition may be imposed against you. The maximum administrative sanction in this case is revocation of licensure and an administrative fine.

Please conduct yourself accordingly.

Dated this 27TH day of October, 2008.


W. Ray Walker
Regulatory & Compliance
Officer

L MITCHELL JONES (USB 5979)
Assistant Attorney General
MARK L SHURTLEFF (USB 4666)
Utah Attorney General
Commercial Enforcement Division
Heber M Wells Building
160 East 300 South – P O Box 146741
Salt Lake City, Utah 84114-6741
Telephone (801) 366-0310

BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
STATE OF UTAH

IN THE MATTER OF THE LICENSE
OF **SUZANNE AUER COOPER**
TO PRACTICE AS A
REGISTERED NURSE
IN THE STATE OF UTAH

VERIFIED PETITION

Case No DOPL-2008- 247

PRELIMINARY STATEMENT

These claims were investigated by the Utah Division of Occupational and Professional Licensing (“Division”) upon complaints that SUZANNE AUER COOPER (“Respondent”), a licensee of the Division, has engaged in acts and practices that constitute violations of the Division of Occupational and Professional Licensing Act, Utah Code Ann §§ 58-1-101 to 58-1-504, the Nurse Practice Act, Utah Code Ann §§ 58-31b-101 to 58-31b-801, and the Controlled Substances Act, Utah Code Ann §§ 58-37-1 to 58-37-21

PARTIES

1 The Division is a division of the Department of Commerce of the State of Utah as established by Utah Code Ann § 13-1-2

2 At all times material to the allegations contained herein, Respondent was licensed as a registered nurse in the State of Utah pursuant to the Nurse Practice Act, Utah Code Ann §§ 58-31b-101 to 58-31b-801

STATEMENT OF ALLEGATIONS

3 Respondent was first licensed as a registered nurse in the State of Utah on or about March 19, 1991

4 On or about March 4, 2008 Respondent was working as a registered nurse at Intermountain Medical Center ("IMC") in Murray, Utah. Naydean Reed was the emergency room nurse manager at IMC on or about March 4, 2008. Ms. Reed observed Respondent's behavior during Respondent's work shift on or about March 4, 2008. Ms. Reed could not locate Respondent for a period of 10 to 15 minutes during Respondent's shift. Ms. Reed then observed Respondent emerge from a bathroom and engaged Respondent in conversation. Ms. Reed observed that Respondent's speech was somewhat slurred and Respondent's conversation was erratic and scattered. Based upon her observations, Ms. Reed determined that Respondent was working under the influence of drugs, narcotics, or alcohol. Ms. Reed observed that there was an empty syringe located in Respondent's pocket. Ms. Reed asked Respondent about the syringe. Respondent stated to Ms. Reed that the syringe had contained intravenous (IV) flush.

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solution Ms Reed was familiar with the type of syringe used at IMC to flush IV's Ms Reed recognized that the type of syringe possessed by Respondent in her pocket was not the type of syringe typically used at IMC to flush IV's Respondent was asked by IMC employees to provide a sample for drug urinalysis Respondent agreed to provide the sample Respondent went into a bathroom to provide the sample Respondent was not observed when she excreted the sample Troy Johnson, an employee of Occupational Health Care, received the sample from Respondent and determined that the sample was too cold to be a valid sample Ms Reed also felt the sample and described it as very cold Respondent was immediately asked to provide a second sample for urinalysis Respondent refused to provide a second sample after Mr Johnson had waited an hour Respondent's employment at IMC was terminated for cause on or about March 5, 2008

5 On or about April 21, 2008 Respondent was interviewed by Irene Woodford, a Division investigator Respondent was asked to provide a sample for drug urinalysis Respondent provided a sample The report sample subsequently tested positive for marijuana metabolites

6 On or about May 5, 2008 Respondent was interviewed by Ms Woodford a second time Respondent admitted that Respondent had received six units of Marinol, which is a brand name for the Schedule III controlled substance dronabinol, in December 2007, from a woman she did not know Respondent admitted to Ms Woodford that Respondent ingested three units of Marinol in March 2008 Respondent stated that she believes this is why her April 21st sample tested positive for marijuana metabolites Respondent did not possess a valid prescription for dronabinol in either December 2007 when Respondent stated she received the dronabinol, or in March 2008 when Respondent

stated she ingested the dronabinol Respondent did not obtain the dronabinol from a practitioner acting in the course of the practitioners professional practice Respondent did not obtain the dronabinol in a manner otherwise authorized by the Utah Controlled Substances Act

APPLICABLE LAW

7 Pursuant to Utah Code Ann § 58-1-401(1), the Division is authorized to " revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee who does not meet the qualifications for licensure under this title "

8 Pursuant to Utah Code Ann § 58-1-401(2), the Division may refuse to issue a license to an applicant and may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public or private reprimand to, or otherwise act upon the license of any licensee in any of the following cases

- (a) the applicant or licensee has engaged in unprofessional conduct, as defined by statute or rule under this title
- (b) the applicant or licensee has engaged in unlawful conduct as defined by statute under this title,

9 Utah Code Ann § 58-1-501(2)(a), (e), and (f) define "unprofessional conduct" to include

- (a) violating, or aiding or abetting any other person to violate, any statute, rule, order regulating an occupation or profession under this title,

* * *

- (e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the

licensee or applicant to safely engage in the occupation or profession,

- (f) practicing or attempting to practice an occupation or profession regulated under this title despite being physically or mentally unfit to do so,

10 Utah Code Ann § 58-31b-502(5) defines “unprofessional conduct” to include

- (5) unlawfully obtaining, possessing, or using any prescription drug or illicit drug,

11 Utah Code Ann § 58-37-8 defines unlawful conduct as follows

- (2)(a)(i) for any person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of his professional practice, or as otherwise authorized in this chapter,

COUNT I

UNLAWFUL OBTAINING, POSSESSION, USE, AND DISTRIBUTION OF CONTROLLED SUBSTANCES AND LEGEND DRUGS

12 Paragraphs 1 through 11 are incorporated by reference as though fully stated herein

13 Respondent unlawfully obtained, possessed, and used a controlled substance as described in paragraphs 3 through 6 above

14 Respondent has therefore engaged in unprofessional conduct as defined in Utah Code Ann § 58-31b-502(5) and unlawful conduct as defined in Utah Code Ann § 58-37-8(2)(a)(i), thus establishing grounds for sanctioning Respondent’s license pursuant to Utah Code Ann § 58-1-401(1) and (2) and the imposition of an administrative penalty pursuant to Utah Code Ann § 58-31b-402 and Utah Administrative Code R156-31b-402

COUNT II

SUBSTANCE ABUSE LEADING TO PROFESSIONAL IMPAIRMENT

15 Paragraphs 1 through 14 are incorporated by reference as though fully stated herein

16 Respondent engaged in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct did, or might reasonably be considered to have, impaired the ability of Respondent to safely practice as a nurse, as described in paragraphs 3 through 6 above

17 Respondent has therefore engaged in unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(e), thus establishing grounds for sanctioning Respondent's license pursuant to Utah Code Ann § 58-1-401(1) and (2) and the imposition of an administrative penalty pursuant to Utah Code Ann § 58-31b-402 and Utah Administrative Code R156-31b-402

COUNT III

PRACTICING OR ATTEMPTING TO PRACTICE NURSING WHILE BEING

PHYSICALLY OR MENTALLY UNFIT TO DO SO

18 Paragraphs 1 through 17 are incorporated by reference as though fully stated herein

19 Respondent practiced or attempted to practice nursing while being physically or mentally unfit to do so, as described in paragraphs 3 through 6 above

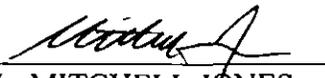
20 Respondent has therefore engaged in unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(f), thus establishing grounds for sanctioning Respondent's

license pursuant to Utah Code Ann § 58-1-401(1) and (2) and the imposition of an administrative penalty pursuant to Utah Code Ann § 58-31b-402 and Utah Administrative Code R156-31b-402

WHEREFORE, the Division requests the following relief

- 1 That Respondent be adjudged and decreed to have engaged in the acts alleged herein,
- 2 That by engaging in the above acts, Respondent be adjudged and decreed to have violated the provisions of the Division of Occupational and Professional Licensing Act, the Nurse Practice Act, and the Controlled Substances Act,
- 3 That Respondent's license to practice as a registered nurse in the State of Utah be immediately revoked, that Respondent not be allowed to reapply for licensure as a nurse in the State of Utah for a period of five years from the effective date of revocation, and any other such sanction that the Board may recommend be imposed against the Respondent's licenses, including an administrative penalty pursuant to Utah Code Ann § 58-31b-402 and Utah Administrative Code R156-31b-402

DATED this 23rd day of October, 2008


L MITCHELL JONES
Assistant Attorney General

STATE OF UTAH)
) SS
COUNTY OF SALT LAKE)

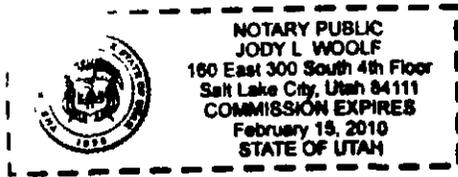
On this 23 day of October, 2008, I swear, depose and state that I have read the foregoing Petition and knows the contents thereof, that the same is true to the best of my knowledge except as to matters stated on information and belief and that, as to those matters, I believe them to be true



Irene Woodford
Investigator
Division of Occupational &
Professional Licensing

IRENE WOODFORD after being duly sworn, deposes and states that she has read the foregoing Affidavit and the same is true to the best of her knowledge, and as to those matters stated upon information and belief, she believes the same to be true

SWORN AND SUBSCRIBED to before me this 23 day of October, 2008




NOTARY PUBLIC

My Commission Expires

2-15-2010