

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 : **NOTICE OF AGENCY ACTION**
CARRIE NAN FRAMPTON : **AND ORDER TO**
TO PRACTICE AS A REGISTERED NURSE : **SHOW CAUSE HEARING**
IN THE STATE OF UTAH : Case No. DOPL-OSC-2-2009-406

THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING TO
Carrie Nan Frampton ("Respondent"), 189 West 850 South,
Orem UT 84058:

The Division of Occupational and Professional Licensing
("the Division") hereby files this notice of agency action. Said
action is based on the Division's verified motion for order to
show cause, 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. It is maintained under the
jurisdiction and authority of the Division as set forth in §58-1-
401(2). **Within twenty (20) 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 to clarify,
refine or narrow the facts and violations alleged in the verified
motion for order to show cause.

Your written response, and any future pleadings or filings,
which are a part of the official file in this proceeding, should
be mailed or hand delivered to the following:

Signed originals to:
Division of Occupational
and Professional Licensing
Attn: Disciplinary Files
(by mail): PO Box 146741
Salt Lake City UT 84114-6741
(by hand delivery):
160 East 300 South, 4th floor
Salt Lake City, Utah

A copy to:
L. Mitchell Jones
Assistant Attorney General
Heber M. Wells Building
(by mail): PO Box 140872
Salt Lake City UT 84114-0872
(by hand delivery):
160 East 300 South, 5th floor
Salt Lake City, Utah

You may represent yourself or, at your own expense, be represented by legal counsel at all times while this action is pending. **Your legal counsel shall file an entry of appearance with the Division after being retained to represent you in this proceeding.** Until that entry of appearance is filed, the Division, its counsel, and the presiding officer will communicate directly with you.

The presiding officer for the purpose of conducting this proceeding will be Jennie Jonsson, Administrative Law Judge, Department of Commerce, who will preside over any evidentiary issues and matters of law or procedure. If you or your attorney may have questions as to the procedures relative to the case, Judge Jonsson can be contacted in writing at P O Box 146701, Salt Lake City, UT 84114-6701; by telephone at (801) 530-6706; or by electronic mail at jjonsson@utah.gov.

Pursuant to a determination previously made by the Division which generally governs proceedings of this nature, the Division is providing the relevant and nonprivileged contents of its investigative file to you, concurrent with the issuance of this notice.

The Division is also providing its witness and exhibit list to you, concurrent with the issuance of this notice. The witness list identifies each individual the Division expects to present as a witness and includes a brief summary of their testimony at the hearing. The exhibit list identifies each anticipated document which the Division expects to present at the hearing. The Division is also providing a copy of any document to you that has not been otherwise made available to you through the investigative file.

Concurrent with your filing of a written response, you should provide to the Division a copy of any documents you have which relate to this case. Further, you should provide your witness and exhibit list to the Division. The witness list should identify each individual you expect to present as a witness and include a brief summary of their anticipated testimony. The exhibit list should identify each document you expect to present at the hearing.

If you fail to file a response within the 20 days allowed or fail to attend or participate in any scheduled hearing, Judge Jonsson may enter a default against you without any further notice to you.

After the issuance of a default order, Judge Jonsson may cancel any prehearing conference or hearing scheduled in the Division's verified petition, conduct any further proceedings necessary to complete the adjudicative proceeding without your participation and determine all issues in the proceeding.

If you are held in default, the maximum administrative sanction consistent with the verified petition may be imposed against you. That sanction in this case is revocation of license.

Counsel for the Division in this proceeding is L. Mitchell Jones, Assistant Attorney General, State of Utah. Mr. Jones may be contacted in writing at P.O. Box 140872, Salt Lake City, UT 84114-0872 or by telephone at (801) 366-0310. You may, subject to the deadlines established herein, attempt to negotiate a settlement of this proceeding by contacting counsel for the Division.

Any stipulation in lieu of a response should be jointly signed by yourself and the Division and filed within the time that a response would otherwise be due. Alternatively, any stipulation to resolve this case in lieu of the hearing shall be jointly signed by the parties and filed no later than one (1) week prior to the scheduled hearing.

Unless this case is resolved by a stipulation between the parties in lieu of the filing of a response, a prehearing conference will be conducted as follows:

October 29, 2012 at 9:00 a.m. by teleconference

During the conference, Judge Jonsson will address and resolve any further discovery issues. A schedule for the filing of any prehearing motions shall also be established.

Subject to the Department of Commerce Administrative Procedures Act Rules which govern this proceeding, the evidentiary hearing shall be conducted within 180 calendar days from the date of issuance of the notice of agency action.

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 revoked, suspended or subjected to other disciplinary action. Unless otherwise specified by the Director of the Division, the Board of Nursing will serve as fact finder in the hearing. The hearing will be conducted as follows:

November 15, 2012 at 9:00 a.m. in Conference Room 474

4th floor
160 East 300 South
Salt Lake City, Utah

During the evidentiary hearing, you will have the opportunity to present an opening statement, submit evidence, conduct cross-examination, submit rebuttal evidence and offer a closing statement to the fact finder. After the close of the hearing, the Board will take the matter under advisement and then submit its Findings of Fact, Conclusions of Law and a Recommended Order to the Division for its review and action.

Dated this 20 day of September, 2012.

W. Ray Walker
W. Ray Walker
Regulatory & Compliance
Officer



L MITCHELL JONES (U.S B 5979)
Assistant Attorney General
MARK L SHURTLEFF (U S B 4666)
Attorney General
Commercial Enforcement Division
Heber M Wells Building
Box 146741
Salt Lake City, UT 84114-6741
TEL (801) 366-0310

**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
CARRIE NAN FRAMPTON
TO PRACTICE AS A
REGISTERED NURSE
IN THE STATE OF UTAH

: **VERIFIED MOTION FOR
ORDER TO SHOW CAUSE**

Case No. DOPL-OSC- 2-2009-406

:

The State of Utah, Department of Commerce, Division of Occupational and Professional Licensing (hereinafter "Division"), through L. Mitchell Jones, Assistant Attorney General, pursuant to Utah Code Ann Title 63G Chapter 4, Utah Code Ann § 58-1-106(1)(a), § 58-1-108(1), and Utah Administrative Code R156-46b-201(2)(a), hereby moves for an order requiring **CARRIE NAN FRAMPTON** (hereinafter "Respondent") to appear at a time and date certain and to show cause, if any, as to why Respondent's probation and license to practice as a registered nurse in the State of Utah should not be revoked for Respondent's failure to comply with the terms and conditions of a Stipulation and Order (hereinafter "stipulated agreement"), entered into by Respondent and the Division on or about December 24, 2009 in Case No DOPL-2009-406 The stipulated agreement is hereby incorporated by reference into this Verified Motion for Order to Show Cause, and attached as Exhibit A along with all Amended Orders

affecting the stipulated agreement. A prior Order to Show Cause Verified Petition in DOPL Case No 2009-406 was filed on June 28, 2011. A hearing was subsequently held on or about October 13, 2011 before the Utah Board of Nursing ("Board"). The Findings of Fact, Conclusions of Law, and Recommend Order of the Board are incorporated by reference and attached as Exhibit B. The factual allegations in this Motion are based upon the Division's information and belief arising out of its investigation. This motion is based on the factual allegations and legal argument set forth below.

FACTUAL ALLEGATIONS

1. Respondent voluntarily signed the stipulated agreement on December 20, 2009. The Division issued the Order sanctioning Respondent's license on December 24, 2009. The Division issued Amended Orders in the matter on May 11, 2010 and July 13, 2010.

2. The Division filed a Notice of Agency Action and Verified Petition against Respondent's license on June 28, 2011. A hearing was subsequently held before the Board on or about October 13, 2011 to consider the allegations contained in the Verified Petition. Respondent was found by the Board to have " . engaged in unprofessional conduct when she failed to comply with the drug testing requirements of the December 24, 2009 Order" and to have " . . engaged in a pattern of similar misconduct as to both the February 28, 2007 Diversion Agreement and the December 24, 2009 Order " The Board recommended and the Division issued an Order on December 1, 2011 extending Respondent's probation so that the period of probation ran from five years from the date of the issuance of the December 1, 2011 Order

2 Paragraph 13 of the stipulated agreement provides that any violation of the terms of the stipulated agreement by Respondent constitutes the basis for initiation of disciplinary

action by the Division against Respondent. The disciplinary action may include imposition of an appropriate sanction, including revocation or suspension of Respondent's license. In Paragraph 10 of the stipulated agreement Respondent agreed to abide by all applicable federal and state laws, regulations, rules and orders related to Respondent's practice as a nurse.

4 Respondent has violated the terms and conditions of the stipulated agreement in the following respects:

- a Respondent has violated subparagraph 8(2)(c) and (k) of the stipulated agreement.
- b Pursuant to the requirements of Respondent's probation, Respondent provided a sample for drug and alcohol analysis on or about May 22, 2012
- c Affinity, the company that oversees the Division's drug testing, reported that the sample Respondent provided on May 22, 2012 subsequently tested positive for oxycodone at a level of 713 ng/mL. The cutoff level for a positive result is 300 ng/mL.
- d Respondent did not possess a valid prescription for oxycodone on or about May 22, 2012, nor did a prescribing practitioner administer oxycodone to Respondent on or about May 22, 2012
- e. On or about September 4, 2012 Respondent's attorney provided a statement, to the Division from Respondent's mother, Elaine C. Farrer, stating that on or about May 6, 2012 Ms. Farrer placed four tablets of oxycodone/APAP 10/650 mg from her own lawful prescription into a container of hydrocodone belonging to Respondent without telling Respondent. This statement was provided to the Division in order to explain why Respondent's sample of May 22, 2012 tested positive for oxycodone
- f On or about September 14, 2012 Respondent met with a Division investigator. Also present at the meeting was Respondent's attorney and father. In response to a question about why her May 22nd sample tested positive for oxycodone, Respondent told the Division investigator that at first she had no idea why her May 22, 2012 sample tested positive for oxycodone, but then her mother told her on the ride home from her meeting with the Utah Board of Nursing on July 12, 2012 that her mother had placed oxycodone from the mother's own prescription in a bottle of Respondent's hydrocodone (Lortab) in early May 2012 without telling Respondent. Respondent told the

DIVISION investigator that on occasion throughout May 2012 Respondent ingested pills kept in the hydrocodone bottle that her mother subsequently admitted putting oxycodone into

- g On or about September 17, 2012 Ms. Farrer was interviewed by a Division investigator. Ms. Farrer was accompanied by her own attorney. Ms. Farrer told the Division investigator that on or about May 7, 2012 Ms Farrer had taken four units of Respondent's hydrocodone (Lortab) because she was in severe pain and couldn't find her own pain medication Ms Farrer then said that she placed four tablets of oxycodone from her own lawful prescription into a container of hydrocodone belonging to Respondent without telling Respondent This statement was provided to the Division in order to explain why Respondent's sample of May 22, 2012 tested positive for oxycodone
- h Neither Respondent, Elaine Farrer, or Respondent's father, who were all present at the July 12, 2012 Nurse Board meeting where Respondent's probation was reviewed by the Board, said anything about Elaine Farrer putting her own oxycodone into Respondent's hydrocodone bottle at the July 12, 2012 board meeting
- i The first time Respondent or anyone associated with Respondent informed the Division that Elaine Farrer had placed her own oxycodone pills in Respondent's hydrocodone bottle was on August 17, 2012 when Respondent's attorney informed the Division of Elaine Farrer's account described in paragraph 4(e) above

LEGAL ARGUMENT

As Respondent has violated the terms and conditions of probation, Respondent is in violation of the stipulated agreement Violation of the terms of the stipulated agreement constitutes unprofessional conduct as set forth in Utah Code Ann § 58-1-501(2)(a) Utah Code Ann. § 58-1-401(2)(a) provides that the Division may revoke, suspend, restrict, place on probation, or otherwise act upon the license of an individual who has engaged in such unprofessional or unlawful conduct.

The Division has shown good cause for this motion If Respondent fails to show why Respondent's probation and license to act as a registered nurse in the State of Utah should not be

revoked, the Division requests that an order be issued revoking Respondent's license and any residual rights pertaining to such license and the Respondent not be permitted to apply for licensure as any type of nurse in the State of Utah for a period of five years

DATED this 20th day of September, 2012

MARK L SHURTLEFF
ATTORNEY GENERAL



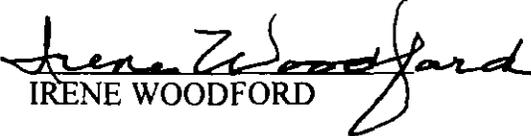
L MITCHELL JONES
ASSISTANT ATTORNEY GENERAL

STATE OF UTAH)
 'ss
COUNTY OF SALT LAKE)

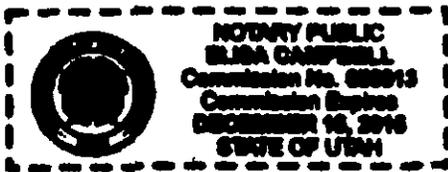
Irene Woodford, first being duly sworn, states as follows

1. I am an employee of the Utah Division of Occupational and Professional Licensing and have been assigned to work on this case
2. I have read the foregoing motion, including the section entitled "Factual Allegations " All of the factual allegations are true to the best of my knowledge, information and belief.

DATED this 19th day of September, 2012.


IRENE WOODFORD

Subscribed and sworn to before me this 19 day of September, 2012.




NOTARY