

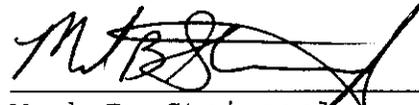
BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF	:	
SHARON MORSE BISHOP	:	DEFAULT ORDER
TO PRACTICE AS A	:	
REGISTERED NURSE	:	Case No. DOPL-2010-175
IN THE STATE OF UTAH	:	(D-645)
	:	

The attached Notice of Entry of Default and Recommended Order is hereby adopted by the Director of the Division of Occupational and Professional Licensing of the State of Utah.

Dated this 1 day of June, 2010.





Mark B. Steinagel
Director

Pursuant to Subsection 63G-4-209(3), Respondent may seek to set aside the above-stated default order by filing such a request with the Division consistent with the procedures outlined in the Utah Rules of Civil Procedure.

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 ENTRY
SHARON MORSE BISHOP	:	OF DEFAULT AND
TO PRACTICE AS A REGISTERED NURSE	:	RECOMMENDED ORDER
IN THE STATE OF UTAH	:	Case No. D-645

APPEARANCES:

L. Mitchell Jones for the Division of Occupational and
Professional Licensing

No appearance by or on behalf of Respondent

BY THE ADMINISTRATIVE LAW JUDGE:

This adjudicative proceeding was initiated pursuant to the issuance of a March 22, 2010 notice of agency action. That notice recites an April 26, 2010 hearing would be conducted to determine whether Respondent failed to comply with the terms and conditions of an August 27, 2009 Diversion Agreement.

The Division sent the notice to Respondent's last known address by both certified and first class mail. The certified mailing was received at that address on March 23, 2010.

The notice recites Respondent may return an attached stipulation and waiver to the Division within fifteen (15) days of the date of the notice or file a written response prior to the

hearing. Respondent did not return the stipulation and waiver to the Division nor did she file any response.

The April 26, 2010 hearing was conducted before J. Steven Eklund, Administrative Law Judge for the Department of Commerce. Respondent did not appear for that hearing. The Division thus requested the entry of Respondent's default due to her nonappearance for the hearing.

§63G-4-209(1)(a) provides an order of default may enter if a respondent in an informal adjudicative proceeding fails to participate in that proceeding. The Division has diligently provided proper notice to Respondent of this proceeding. Given Respondent's failure to have appeared for the April 26, 2010 hearing, the Court concluded a proper basis exists to enter Respondent's default and her default was so entered.

After the issuance of a default order, §63G-4-209(4)(a) provides the presiding officer shall conduct further proceedings as necessary to complete the adjudicative proceeding without the participation of the party in default. §63G-4-209(4)(a) also provides a determination shall be made of all issues in the adjudicative proceeding, including those affecting the defaulting party.

Given the proffer by the Division, the Court now enters its Findings of Fact, Conclusions of Law and submits the following Recommended Order to the Division for its review and action:

FINDINGS OF FACT

1. Pursuant to the August 27, 2009 Diversion Agreement, Respondent was to completely abstain from the person use and possession of alcohol. She was also to be tested by any company with which the Division has contracted to conduct drug testing.

2. The August 27, 2009 Diversion Agreement further required Respondent to meet with the Utah Recovery Assistance Program Advisory Committee (hereinafter, Committee) each month for the initial three (3) months of the Diversion Agreement. Respondent was to then attend such meetings on a quarterly basis or as otherwise directed.

3. Respondent violated Paragraph 4(b) of the Diversion Agreement when she used alcohol on September 21, 2009, October 2, 2009, October 14, 2009, and October 22, 2009. Respondent had admitted to Division personnel that she had used alcohol on a number of occasions during September 2009 and October 2009.

4. Respondent violated Paragraph 4(g) of the Diversion Agreement when she failed to submit a sample for drug testing analysis as required on October 31, 2009; November 2, 2009; November 17, 2009; November 27, 2009; December 11, 2009; and January 7, 2010.

5. Respondent violated Paragraph 4(i) of the Diversion Agreement when she failed to meet with the Committee as required on September 22, 2009 and January 26, 2010.

CONCLUSIONS OF LAW

§58-1-404(14) provides:

(a) If, during the course of the diversion agreement, information is brought to the attention of the director that the licensee has violated the diversion agreement and if it appears in the best interest of the public to proceed with charges, the director, after consultation with the diversion advisory committee, shall cause to be served upon the licensee an order to show cause specifying the facts relied upon by the director and setting a time and place for hearing to determine whether or not the licensee has violated the diversion agreement and whether the agreement should be terminated.

(c) (i) Upon finding the licensee has violated the diversion agreement and that terminating the agreement is in the best interest of the public, and issuing an order to that effect, the director shall issue an order of license suspension, suspending the licensee's professional license, but shall stay the suspension in favor of an order of probation, consisting of the same terms as those which comprised the diversion agreement.

(ii) The period of probation shall be the time period which remained under the diversion agreement, or five years from the date of the order of license suspension and probation, whichever is longer, unless otherwise agreed by the parties.

Respondent has repeatedly violated numerous provisions of the August 27, 2009 Diversion Agreement. Given the nature and seriousness of those violations, a proper factual and legal basis exists to terminate that Agreement.

Further, a termination of the Diversion Agreement is in the best interest of the public, as nothing would be served by any subsequent attempts to obtain Respondent's compliance with that Agreement. Absent any matters in defense or mitigation, the

Court concludes the following Recommended Order is warranted:

RECOMMENDED ORDER

WHEREFORE, IT IS ORDERED the August 27, 2009 Diversion Agreement is terminated and Respondent's license to practice as a registered nurse shall be suspended.

It is further ordered a stay of enforcement is entered as to that suspension. Respondent's license shall thus be placed on probation for five (5) years, effective the date this Recommended Order is adopted by the Division.

Respondent's license shall be subject to the same terms and conditions which governed her license prior to the entry of this Order. However, Respondent shall report to, meet with and provide documentation to the Division and the Board of Nursing - rather than the Committee - during the period of probation.

I hereby certify the foregoing Notice of Entry of Default, Findings of Fact, Conclusions of Law and Recommended Order were submitted to Mark B. Steinagel, Director of the Division of Occupational and Professional Licensing, on the 27th day of May 2010 for his review and action.


J. Steven Eklund
Administrative Law Judge
Department of Commerce