

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**
KELLEY M. WRIGHT : **AND ORDER TO**
TO PRACTICE AS A : **SHOW CAUSE HEARING**
LICENSED PRACTICAL NURSE
IN THE STATE OF UTAH . Case No DOPL-OSC-2010-67

THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING TO
Kelley M. Wright ("Respondent"), , Salt
Lake City UT 84119:

The Division of Occupational and Professional Licensing
("the Division") hereby files this Notice of Agency Action and
Order to Show Cause Hearing. Said action is based upon 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 shall 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). Pursuant to Utah Code Ann. §§ 63G-4-204(1) and 63G-4-
102(9), and for good cause appearing, **you are required to file a
written response with the Division within twenty (20) days of the
mailing date of this notice.** The response you file may be
helpful in clarifying, refining or narrowing the facts and
violations alleged in the Verified Motion for Order to Show
Cause. 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 of Counsel and until that Entry of Appearance
is filed, the presiding officer will deal directly with you.

Based upon the allegations in the Division's Verified Motion for Order to Show Cause that you have violated an Order of the Division and have thereby engaged in unprofessional conduct, and good cause appearing, you are hereby ordered to appear at the date, time and place set forth below to show cause why your license to practice as a licensed practical nurse in the State of Utah should not be suspended, revoked, or subjected to further disciplinary action.

You are entitled by law to an evidentiary hearing regarding this Order to Show Cause as to why your license to practice as a licensed practical nurse in the State of Utah should not be suspended, revoked or subjected to further disciplinary action Unless otherwise specified by the Director of the Division, the Board of Nursing will serve as fact finder in the evidentiary hearing.

Notice is hereby given that said hearing will be held on the following date and time in Conference Room 474, of the Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah.

July 14, 2011

2:00 p.m.

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.

Upon your timely filing of a written response to this Notice of Agency Action and Order to Show Cause as set forth above, Judge Eklund will conduct a prehearing conference with you or your attorney and counsel for the Division at the request of either party. At that prehearing conference Judge Eklund will determine the extent to which this action is contested and will make such orders as deemed appropriate.

Counsel for the Division is L Mitchell Jones, Assistant Attorney General, at (801) 366-0310 or P O Box 140872, Salt Lake City, UT 84114-0872.

You or your attorney may attempt to negotiate a settlement of this case without proceeding to a hearing by contacting Mr. Jones

Should you fail to timely file a written response as set forth above, or fail to attend or participate in any scheduled hearing in this case, including any 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 this Order to Show Cause may be imposed against you. The maximum administrative sanction in this case is revocation of licensure.

Please conduct yourself accordingly.

Dated this 10TH day of May, 2011.

W. Ray Walker

W. Ray Walker
Regulatory & Compliance
Officer



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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
KELLEY M. WRIGHT
TO PRACTICE AS A
LICENSED PRACTICAL NURSE
IN THE STATE OF UTAH

**VERIFIED MOTION FOR
ORDER TO SHOW CAUSE**

Case No DOPL-OSC- 2010-67

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 **KELLEY M. WRIGHT** (hereinafter "Respondent") to appear at a time and date certain and to show cause, if any, as to why Respondent's probation should not be terminated and Respondent's license to practice as a licensed practical 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 March 1, 2010 in Case No DOPL-2010-67. The stipulated agreement is hereby incorporated by reference into this Verified Motion for Order to Show Cause, and attached as

Exhibit A 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 January 27, 2010. The Division issued the Order sanctioning Respondent's license on March 1, 2010.

2 Paragraph 14 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 11 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 violated subparagraph 9(2)(a) of the stipulated agreement by failing to meet with the Division on March 10, 2011 as directed by the Division and Board.
- b Respondent violated subparagraph 9(2)(e) of the stipulated agreement by failing to provide the Division, within 48 hours after the prescription was written, with a copy of a prescription Respondent filled on or about February 14, 2011, for hydrocodone, and another prescription Respondent filled on or about February 16, 2011, for hydrocodone.
- c Respondent violated subparagraph 9(2)(i) of the stipulated agreement by failing to provide samples for drug analysis as directed by the Division and/or the company designated to administer Respondent's drug analysis, on the following dates:

March 31, 2010,

June 7, 2010,
August 16, 2010,
September 21, 2010,
October 13, 2010,
November 10, 2010,
November 25, 2010,
December 10, 2010,
December 21, 2010,
January 3, 2011,
January 25, 2011,
February 28, 2011,
March 18, 2011,
March 31, 2011, and
April 7, 2011

Respondent was informed several times by Division staff that the Division bureau manager, Laura Poe, had reiterated that Respondent was required to provide samples for testing through Compass Vision, and that the samples Respondent provided through Global Testing for her criminal probation was not acceptable as a substitute for testing through Compass Vision

- d Respondent violated subparagraph 9(2)(l) and (m) of the stipulated agreement by failing to timely submit self-assessment reports to the Division in December 2010 and March 2011
- e Respondent violated subparagraph 9(l) and (q) of the stipulated agreement by failing to timely submit employer performance evaluation reports to the Division in December 2010 and March 2011
- f Respondent violated subparagraph 9(2)(l) and (p) of the stipulated agreement by failing to timely submit 12-step reports to the Division in December 2010
- g Respondent violated subparagraph 9(2)(l) and (o) of the stipulated agreement by failing to timely submit support group (Professionals in Recovery) attendance to the Division in December 2010

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

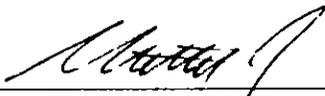
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Ann § 58-1-401(2)(a) provides that the Division may revoke, suspend, restrict, place on probation, or otherwise act upon the license of an individual who has engaged in such unprofessional or unlawful conduct

The Division has shown good cause for this motion. If Respondent fails to show why Respondent's probation and license to act as a licensed practical nurse in the State of Utah should not be revoked, Division requests that an order be issued revoking Respondent's license and any residual rights pertaining to such license

DATED this 9th day of May, 2011

MARK L SHURTLEFF
ATTORNEY GENERAL



L MITCHELL JONES
ASSISTANT ATTORNEY GENERAL

