

**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

**NOTICE OF ENTRY OF DEFAULT
FINDINGS OF FACT
CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**
Case No. DOPL-OSC-2010-67

BY THE ADMINISTRATIVE LAW JUDGE:

This adjudicative proceeding was initiated pursuant to the issuance of a May 10, 2011 notice of agency action. The notice recites Respondent was required to file a response within twenty (20) days of the mailing date of the notice. The notice also recites a July 14, 2011 hearing is scheduled to be conducted before the Nursing Board.

The May 10, 2011 notice was sent to Respondent's last known address of _____, Salt Lake City, Utah 84119 by both certified and first class mail on that date. The certified mailing was received at that address on May 11, 2011.

Respondent did not submit a response in this proceeding. The Division thus filed a June 9, 2011 motion to enter Respondent's default. §63G-4-209(1)(c) provides an order of default may enter if a respondent in a formal adjudicative proceeding fails to file a response. Given Respondent's failure to have filed any response, the Division requested the Court to enter Respondent's default.

The Division has duly notified Respondent of this proceeding. Absent any response filed to the May 9, 2011 Verified Motion to Show Cause, the Court concludes a proper basis exists to enter Respondent's default and her default is hereby entered.

After the entry 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 entry of Respondent's default, the July 14, 2011 hearing is hereby canceled. Further, the Court adopts the allegations set forth in Paragraphs 1 through 4 of the May 9, 2011 Verified Motion as its Findings of Fact. Specifically, a March 1, 2010 Order was entered to govern Respondent's license.

That Order contains various terms and conditions. Respondent was required to periodically meet with the Board. She was to also provide the Division, within 48 hours of its issuance, with a copy of any written prescriptions.

Moreover, Respondent was to provide samples for drug urinalysis as requested. Respondent was also required to submit monthly self-assessment reports and employer performance evaluation reports to the Division. She was further required to submit monthly 12-step reports and similarly document her support group attendance.

Respondent failed to attend a scheduled Board meeting on March 10, 2011. She failed to provide a copy of hydrocodone prescriptions which she had filled on February 14 and 16, 2011. Respondent also failed to submit a sample for drug testing as scheduled on fifteen (15) occasions between March 31, 2010 and April 7, 2011.

Respondent did not submit self-assessment reports and employer performance evaluation reports to the Division as required in December 2010 and March 2011. She further failed to submit documentation to the Division of any support group attendance in December 2010. Respondent also failed to submit a 12-step report to the Division as required in December 2010.

The Court adopts the first paragraph of the legal argument in the May 9, 2011 Verified Motion as its Findings of Fact and Conclusions of Law. Specifically, Respondent engaged in unprofessional conduct violative of Utah Code Ann. §58-1-501(2)(a) when she failed to comply with all provisions of the March 1, 2010 Order.

The Court thus readily finds and concludes a proper factual and legal basis exists to enter disciplinary action on Respondent's license. Absent any matters offered in defense or mitigation, the Court further concludes the following action is warranted:

RECOMMENDED ORDER

WHEREFORE, IT IS ORDERED Respondent's license to practice as a licensed practical nurse in this state shall be revoked, effective the date this Recommended Order

may be adopted.

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 June 2011 for his review and action.


J. Steven Eklund
Administrative Law Judge
Department of Commerce

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OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE
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TO PRACTICE AS A
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IN THE STATE OF UTAH

DEFAULT ORDER

Case No. DOPL-OSC-2010-67

BY THE DIVISION:

The attached Notice of Entry of Default, Findings of Fact, Conclusions of Law and Recommended Order is hereby adopted by the Director of the Division of Occupational and Professional Licensing of the State of Utah. Respondent's license to practice as a licensed practical nurse is thus revoked, effective the date of this Order.

IT IS FURTHER ORDERED that the revoked license, both wall and wallet sizes, as well as any embossed certificate, be surrendered to the Division of Occupational and Professional Licensing.

Dated this 28th day of June 2011.

W. Ruff Walker, Acting Director
for Mark B. Steinagel
Director
Division of Occupational and
Professional Licensing

Pursuant to Subsection 63G-4-209(2), 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.