

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	:	
EMILY MANUELA WILSON	:	NOTICE OF AGENCY ACTION
TO PRACTICE AS A	:	
REGISTERED NURSE	:	
IN THE STATE OF UTAH	:	Case No. DOPL-2011-47

THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING TO
Emily Manuela Wilson ("Respondent"),
, Salt Lake City UT 84118.

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.

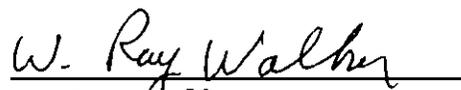
Counsel for the Division in this case is L. Mitchell Jones, Assistant Attorney General at (801) 366-0310 or P O Box 140872, Salt Lake City, UT 84114-0872. Within ten (10) days after the filing of your response, Mr. Jones will request the scheduling of a prehearing conference.

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 8TH day of February, 2011.


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

IN THE MATTER OF THE LICENSE
OF **EMILY MANUELA WILSON**
TO PRACTICE AS A
REGISTERED NURSE
IN THE STATE OF UTAH

VERIFIED PETITION

Case No DOPL-2011- 47

PRELIMINARY STATEMENT

These allegations were investigated by the Utah Division of Occupational and Professional Licensing (“Division”) upon complaints that **EMILY MANUELA WILSON** (“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 through 58-1-504, the Nurse Practice Act, Utah Code Ann §§ 58-31b-101 through 58-31b-801, and the Utah Controlled Substances Act, Utah Code

Ann §§ 58-37-1 through 58-37-21 These allegations are based upon information provided by witnesses and by a Division investigator and are based upon information and belief the investigator obtained during her investigation Each paragraph in this Verified Petition incorporates every other paragraph contained herein

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 to practice as a registered nurse in the State of Utah pursuant to the Nurse Practice Act, Utah Code Ann §§ 58-31b-101 through 58-69-801

STATEMENT OF ALLEGATIONS

3 Respondent was first licensed to practice as a registered nurse in the State of Utah on or about March 25, 1992 and was so licensed at all time periods relevant to this Verified Petition Respondent’s license expired on January 31, 2011 after Respondent failed to renew the license

4 On or about Monday, September 28, 2009 Respondent was working as a registered nurse at Christus St Joseph Villa (hereinafter “Christus”), a senior care facility in Salt Lake County, Utah

5 In the morning hours of Monday, September 28, 2009 Respondent and another

nurse, Marguerite O'Connor, performed an inventory of controlled substances for various patients

6 During the inventory of controlled substances for a male patient, hereinafter referred to as "John Doe #1," Ms O'Connor discovered that four units of methadone 5 mg, a Schedule II controlled substance, were not accounted for on the Controlled Drug Count list

7 Respondent told Ms O'Connor that Respondent did not take the four units of methadone 5 mg and Respondent did not administer any of the four units of methadone 5 mg to any patient

8 During the inventory of a controlled substances for a different male patient, hereinafter referred to as "John Doe #2", Ms O'Connor discovered that one unit of Lortab, a Schedule III controlled substance, was not accounted for on the Controlled Drug Count list

9 Terry Bristow, the security officer for Christus, was called to investigate

10 Mr Bristow asked Respondent if Mr Bristow could search Respondent's purse Respondent told Mr Bristow that Mr Bristow could search Respondent's purse

11 While searching Respondent's purse, Mr Bristow found a number of prescription bottles Three of the bottles each contained a number of different medications

12 The three bottles described in paragraph 11 above had labels that identified the bottle as belonging to Respondent

13 The three bottles described in paragraphs 11 and 12 above contained a number of different kinds of controlled substances, prescription-only medication, and over-the-counter medications

14 The three bottles described in paragraphs 11, 12, and 13 above contained the following controlled substances

- a MS Contin (morphine sulfate), a Schedule II controlled substance, 1 unit,
- b Dolophine (methadone), a Schedule II controlled substance, 15 units,
- c Provigil (modafinil), a Schedule IV controlled substance, 7 units,
- d Lortab (hydrocodone/paracetamol), a Schedule III controlled substance, 7 units,
- e Ativan (lorazepam), a Schedule IV controlled substance, 4 units,
- f Klonopin (clonazepam), a Schedule IV controlled substance, 2 units,
- g Kadian (morphine sulfate), a Schedule II controlled substance, 8 units,
and
- h Vicodin (hydrocodone/paracetamol), a Schedule III controlled substance, 2 units

15 Respondent told Mr Bristow, Karie Jones, the Director of Nursing at Christus, and Carol Christofferson, another nurse who worked at Christus, that Respondent did not have a prescription for the medications found in Respondent's purse and that Respondent obtained the medications from Respondent's sister

16 Salt Lake City police officers Kim J Herburg and Chad Smith arrived at Christus around 9 30 am on Monday, September 28, 2009

17 Respondent told Officer Herburg and Officer Smith that the medications in Respondent's purse had been obtained from other people and that Respondent knew it was illegal for Respondent to possess them Mr Bristow overheard this statement

18 On or about October 20, 2009, an Amended Information was filed in Third District Court, Salt Lake County, Utah, charging Respondent with knowingly and intentionally possessing the controlled substances Dolophine, Methadone, MS Contin, Kadian, Lortab, and Ativan, on September 28, 2009, in violation of Utah Code Ann § 58-37-8(2)(a)(i)

19 On or about December 15, 2009, Irene Woodford, an investigator with the DIVISION, asked Respondent if she would be willing to answer questions about the September 28, 2009 incident Respondent declined to answer any questions from Ms Woodford and referred Ms Woodford to her attorney

20 On or about September 15, 2010, as part of a plea bargain agreement, Respondent pleaded guilty to one count of attempted possession or use of controlled substance, a Class A misdemeanor, and one count of possession or use of controlled substance, a Class B misdemeanor, in Third District Court, Salt Lake County, Utah

21 On or about November 8, 2009, Respondent was sentenced by Judge Royal Hansen to 365 days in jail The entire jail term was suspended Respondent was fined \$4,525 00, of which a large part was suspended Respondent was ordered to provide 75

hours of community service Respondent was ordered to serve 12 months probation
Respondent was ordered to undergo a substance abuse evaluation

APPLICABLE LAW

22 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 "

23 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,

24 Utah Code Ann § 58-1-501(2)(a) and (c) 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,

* * *

- (c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or

profession for which the license was issued or is to be issued, bears a reasonable relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession,

25 Utah Code Ann § 58-31b-502(5) defines "unprofessional conduct" to include

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

26 Utah Administrative Code R156-37-502(2) defines "unprofessional conduct" to include

violating any federal or state law relating to controlled substances,

27 Utah Code Ann § 58-37-8(2)(a)(i) provides that it is "unlawful"

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 the person's professional practice, or as otherwise authorized by this chapter,

COUNT I

CONDUCT LEADING TO CONVICTION OF AN OFFENSE REASONABLY

RELATED TO RESPONDENT'S ABILITY TO SAFELY AND/OR

COMPETENTLY PRACTICE AS A REGISTERED NURSE AND/OR AN

OFFENSE INVOLVING MORAL TURPITUDE

28 Paragraphs 1 through 28 are incorporated by reference as though fully stated herein

29 Respondent was convicted of an offense reasonably related to Respondent's

ability to safely and/or competently practice as a registered nurse and/or an offense involving moral turpitude, as described in paragraphs 3 through 21 above

30 Respondent has therefore engaged in unprofessional and unlawful conduct as defined in Utah Code Ann § 58-1-501(2)(a) and (c), thus establishing grounds for sanctioning Respondent's licenses pursuant to Utah Code Ann § 58-1-401(1) and (2)

COUNT II

ILLEGAL POSSESSION AND/OR USE OF A CONTROLLED SUBSTANCE

31 Paragraphs 1 through 30 are incorporated by reference as though fully stated herein

32 Respondent illegally used and/or possessed a controlled substance, as described in paragraphs 3 through 21 above

33 Respondent has therefore engaged in unlawful conduct as defined in Utah Code Ann § 58-1-501(2)(a), § 58-37-8(2)(a)(1), and Utah Administrative Code R156-37-502(2), thus establishing grounds for sanctioning Respondent's licenses pursuant to Utah Code Ann § 58-1-401(1) and (2)

COUNT III

UNLAWFULLY OBTAINING, POSSESSING, OR USING ANY PRESCRIPTION

DRUG OR ILLICIT DRUG

34 Paragraphs 1 through 33 are incorporated by reference as though fully stated herein

35 Respondent unlawfully obtained and/or possessed a prescription drug, as

described in paragraphs 3 through 21 above

36 Respondent has therefore engaged in unprofessional and unlawful conduct as defined in Utah Code Ann § 58-1-501(2)(a), § 58-31b-502(5), and Utah Administrative Code R156-37-502(2) thus establishing grounds for sanctioning Respondent's licenses pursuant to Utah Code Ann § 58-1-401(1) and (2)

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 Utah Controlled Substances Act,

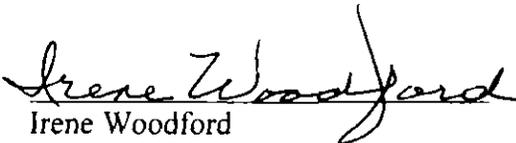
3 That Respondent's license to practice as a registered nurse in the State of Utah be immediately revoked, along with all residual rights pertaining to said license, and that any other sanction that the Board may recommend-- including a fine, administrative penalty, or civil penalty authorized by statute and/or administrative rule-- be imposed against the Respondent's licenses

DATED this 8th day of February, 2011

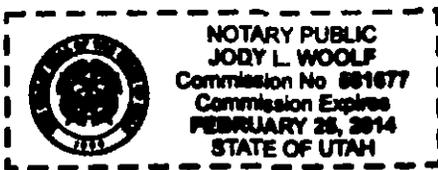

L MITCHELL JONES
Assistant Attorney General

STATE OF UTAH)
)
) SS
COUNTY OF SALT LAKE)

I, IRENE WOODFORD, after being duly sworn, depose and state that I have read the foregoing Petition and know 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

SWORN AND SUBSCRIBED to before me this 8th day of February, 2011




NOTARY PUBLIC

My Commission Expires

2-25-14