

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
Heber M. Wells Building
160 East 300 South
P.O. Box 146741
Salt Lake City, UT 84114-6741
TEL. (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**
SHELLIE ELIZABETH BEZZANT : **TO TERMINATE DIVERSION**
TO PRACTICE AS A : **AGREEMENT**
REGISTERED NURSE :
IN THE STATE OF UTAH : Case No D- 651

THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING TO

Shellie Elizabeth Bezzant ("Respondent")
2775 Breeze Drive
Magna Ut 84044

The Division of Occupational and Professional Licensing ("Division"), pursuant to Utah Code Ann §§ 58-1-404(14), 63G-4-201, and 63G-4-204 through 63G-4-209, and Utah Administrative Code R156-46b-201(2), hereby files this notice hereby files this notice of agency action Said action is based on the Division's verified petition, a copy of which is attached hereto and incorporated herein by reference. This notice of agency action provides notice of proceedings to terminate your Diversion Agreement, suspend your license, and stay that suspension in favor of an order of probation consisting of the same terms and conditions set forth in the Diversion Agreement. The period of the probation shall be the time period remaining under the Diversion Agreement or five years from the date of the order of license suspension and probation, whichever is longer, unless otherwise agreed upon by the parties. Such period of probation would be tolled during any time in which you fail to maintain your license(s) in an active status in the State of Utah.

The adjudicative proceeding designated herein is to be conducted on a formal basis. **Within 30 days of the mailing date of this notice, you are required to file a written response with the Division.** It is maintained under the jurisdiction and authority of the Division as set forth in §58-1-401(2). The response you file may be helpful to clarify, refine or narrow the facts and violations alleged in the verified petition.

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
Heber M. Wells Building
(by mail): PO Box 146741
Salt Lake City, UT 84114-6741
(by hand delivery):
160 East 300 South, Fourth 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, Fifth 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 PO 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

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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 30 days allowed or fail to attend or participate at 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 termination of your Diversion Agreement, suspension your license, and stay of that suspension in favor of an order of probation consisting of the same terms and conditions set forth in the Diversion Agreement. The period of the probation shall be the time period remaining under the Diversion Agreement or five years from the date of the order of license suspension and probation, whichever is longer, unless otherwise agreed upon by the parties. Such period of probation would be tolled during any time in which you fail to maintain your license(s) in an active status in the State of Utah

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 PO 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:

September 24, 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 the State of Utah should terminate your Diversion Agreement, suspend your license, and stay that suspension in favor of an order of probation consisting of the same terms and conditions set forth in the Diversion Agreement. The period of the probation shall be the time period remaining under the Diversion Agreement or five years from the date of the order of license suspension and probation, whichever is longer, unless otherwise agreed upon by the parties. Such period of probation would be tolled during any time in which you fail to maintain your license(s) in an active status in the State of Utah.

Unless otherwise specified by the Director of the Division, the administrative law judge will serve as fact finder in the hearing.

The hearing will be conducted as follows:

**October 15, 2012 at 9:00 a.m. in Conference Room 474 (4th floor)
Heber M. Wells Building
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 administrative law judge 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 16 day of August 2012.



W. Ray Walker
W. Ray Walker
Regulatory and Compliance Officer
Division of Occupational and
Professional Licensing

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 LICENSES OF :
SHELLIE ELIZBETH BEZZANT : **VERIFIED PETITION**
TO PRACTICE AS A :
REGISTERED NURSE : Case No D- 651
IN THE STATE OF UTAH :

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), § 58-1-404(14), and Utah Administrative Code R156-46b-201(2)(a) and (c), hereby moves for an order requiring **SHELLIE ELIZABETH BEZZANT** (hereinafter "Respondent") to appear at a time and date certain and to show cause, if any, as to why Respondent's Diversion Agreement should not be terminated and Respondent's license suspended, and the suspension stayed, in favor of an order of five years probation, consisting of the same terms as those that comprised the Diversion Agreement, because of Respondent's failure to comply with the terms and conditions of the Diversion Agreement entered into by Respondent and the Division on or about November 24, 2009, a copy of which is incorporated by reference 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 was first licensed to practice as a registered nurse in the State of Utah on or about May 4, 1998.

2 Respondent voluntarily signed the Diversion Agreement on or about November 24, 2009

3. Paragraph 11 of the Diversion Agreement provides that if the licensee fails to comply with the terms of the Diversion Agreement the Division shall initiate procedures to terminate the Diversion Agreement and issue an order of license suspension, which shall be stayed in favor of an order of probation having the same terms and conditions as those which comprised the original Diversion Agreement

4. Respondent has violated the terms and conditions of the Diversion Agreement in the following respects

- a. Respondent violated subparagraph 3(g) of the Diversion Agreement by failing to provide samples for drug urinalysis as directed by the Division or the contract drug testing company on the following dates.

February 22, 2012;
February 27, 2012,
March 7, 2012,
March 29, 2012,
April 18, 2012,
April 27, 2012,
May 5, 2012,
May 18, 2012,

June 3, 2012,
June 18, 2012,
July 12, 2012, and
August 8, 2012

- b Respondent violated subparagraph 3(j)(v) and (k)(iv) of the Diversion Agreement by failing to attend required weekly professional support group meetings and submit records of support group attendance at any time since January 2012
- c On or about April 3, 2012 Respondent told a Division staff member that she wanted to surrender her license. Respondent has not participated in any way in Diversion since April 3, 2012

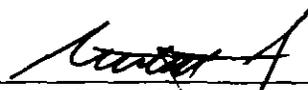
LEGAL ARGUMENT

As Respondent has violated the terms and conditions of probation, Respondent is in violation of the Diversion Agreement. Violation of the terms of the Diversion Agreement constitutes unprofessional conduct as set forth in Utah Code Ann. § 58-1-501(2)(a). Utah Code Ann § 58-1-404(14) provides that the Division may terminate the Diversion Agreement, suspend Respondent's license, and then stay the suspension, in favor of an order of probation, consisting of the same terms as those which comprised the Diversion Agreement, of an individual who has violated the Diversion Agreement.

The Division has shown good cause for this motion. If Respondent fails to show that Respondent has not violated the Diversion Agreement, the Division requests that an order be issued terminating Respondent's Diversion Agreement, suspending Respondent's license, then stay that suspension in favor of an order of five years probation, consisting of the same terms that comprised the Diversion Agreement.

DATED this 13th day of August, 2012

MARK L SHURTLEFF
ATTORNEY GENERAL



L MITCHELL JONES
ASSISTANT ATTORNEY GENERAL