BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NO. 90 NB 029

STATE OF INDIANA,

Petitioner,

v.

IRENE LYNN STRICKLAND MOSS, R.N.,
License No. 28075537,

Respondent.

FILED

JUN 12 1991

HEALTH PROFESSIONS
BUREAU

MOTION TO COMPEL DISCOVERY

Comes now the Petitioner, the State of Indiana, by its counsel, Linley E. Pearson and Andrew S. Peacock, Deputy Attorney General, and pursuant to T.R. 37 would move the Indiana State Board of Nursing ("Board") for an Order compelling the Respondent to waive any assertions of confidentiality which she may make concerning her doctor-patient privilege in regard to Mike Larson, M.D. and Krishman Potti, M.D. In support of this motion, the State would show the following:

1. On April 17, 1990, disciplinary charges were filed against the Respondent before the Board alleging that she had been disciplined in the State of Illinois for incidents relating to the diversion and usage of narcotics.

2. On October 4, 1990, the State's First Amended Complaint was filed in this matter. The Amended Complaint alleges, inter alia, that Respondent may be addicted to, abusing, or severely dependent upon drugs that endanger the public by impairing her ability to practice safely.

3. On October 18, 1990, the Board issued an Order which required that Respondent undergo both physical and addictionology examinations.

4. On November 29, 1990, the Board ordered that Respondent have these examinations completed by Krishnan Potti, M.D. and Mike Larson, M.D., respectively.

5. Respondent has failed to submit a report of Dr. Potti's examination to the Board.

6. Dr. Larson's report was submitted to the Board on March 1, 1991.

7. On April 12, 1991, Respondent was sent Consent for Disclosure of Information forms which were directed to Drs. Potti and Larson. Respondent has not responded to the State's request.

8. Respondent's attorney has stated that Respondent is unwilling to respond to this request.

9. Respondent's physical and mental capacity to practice nursing is at issue in this matter.

10. Both Dr. Potti and Dr. Larson were named by the Board to examine Respondent for the purposes of this adjudication. Therefore, these examinations were not conducted for the purpose of treatment or diagnosis looking toward treatment and the physician/client privilege does not apply. See Corder v. State, 467 N.E.2d 409 at 415.

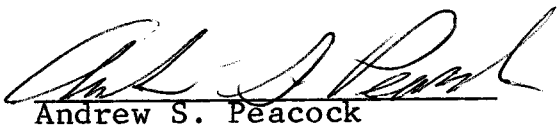
11. The names of both Dr. Potti and Dr. Larson appear on Respondent's list of potential witnesses.

WHEREFORE, the Petitioner, the State of Indiana would respectfully request the Board to order the Respondent to waive,

in writing, any assertions of doctor/patient confidentiality which she may have regarding Krishman Potti, M.D. and Mike Larson, M.D., to award attorney's fees and expenses of this motion pursuant to T.R. 37(A)(4), and to grant all other just and proper relief in the premises.

Respectfully submitted,

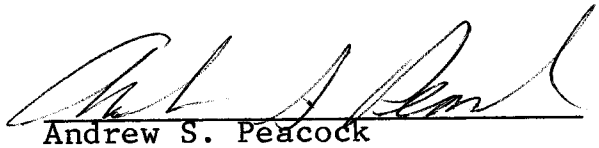
LINLEY E. PEARSON
Attorney General of Indiana

By: 
Andrew S. Peacock
Deputy Attorney General

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing "Motion to Compel Discovery" has been duly served upon all counsel of record listed below, by United States mail, first-class postage prepaid, on this 24th day of June, 1991:

Charles D. Brooks, Jr., Esq.
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