

STATE OF INDIANA) IN THE CLARK CIRCIUT COURT #2
)SS:
COUNTY OF CLARK)

STATE OF INDIANA

vs.

JENNIFER L. DANIEL

AFFIDAVIT FOR PROBABLE CAUSE

I, Sarah A. Shoup, Drug Diversion Investigator for the Office of the Indiana Attorney General, Medicaid Fraud Control Unit, have probable cause to believe that between November 20, 2018 and May 3, 2019, Jennifer L. Daniel (“Daniel”), in Clark County, State of Indiana, did commit the following crimes:

IC 35-45-21-5(c)(2) Interference with Medical Services, a Level 5 Felony

IC 35-48-4-14(c) Offenses Relating to Registration, a Level 6 Felony

I.C. 35-43-5-2(d)(4) Forgery, a Level 6 Felony

I participated in the investigation of the criminal offenses described in this affidavit. The statements contained in this affidavit are founded, in part, on information provided to me through conversations or written statements and information from numerous representatives of health care facilities and pharmacies related to this investigation. I believe these witnesses to be truthful and credible.

- 1) Because this affidavit is being submitted for the purposes of filing criminal charges I have not included all facts that have been revealed during the course of this investigation. I have set forth only the facts that are believed to be necessary to establish the required foundation for probable cause.
- 2) Jennifer L. Daniel is currently a Registered Nurse, License Number 28221331A and was licensed in the State of Indiana on March 13, 2015. Her date of birth is July 22, 1979.
- 3) On May 29, 2019, I was assigned this case for investigation through a complaint by New Albany Meijer Pharmacist Brad Gentry. Gentry had found some concerning narcotic prescriptions, written by Dr. Brian Heimer, for hospice patients who resided in long term care facilities, which were being filled by Jennifer L. Daniel, later identified as a hospice nurse with Southerncare Hospice in New Albany, Floyd County, Indiana. Gentry reviewed prescriptions which were picked up by Daniel using her driver’s license number. Gentry then ran INSPECT reports (reports that collect data regarding patient prescriptions for controlled substances) for these patients and determined that all of their other prescriptions were being filled by Omnicare, a pharmacy who normally fills for long term care facilities; the exceptions were the patients’ Hydrocodone and Zolpidem, which were picked up by Daniel.

- 4) Hydrocodone is a prescription opioid painkiller, prescribed to treat moderate to severe pain; it is classified as a Schedule II controlled substance. Zolpidem is a sedative used to treat insomnia; it is classified as a Schedule IV controlled substance.
- 5) I contacted Southerncare Hospice and learned that Daniel had been terminated for failing to follow procedure.
- 6) I obtained records from Southerncare regarding all patients Daniel had visited and reviewed INSPECT reports for these patients. I also identified those patients who were residents of long term care facilities. Reports for those patients residing in facilities revealed numerous instances of prescriptions for Hydrocodone and Zolpidem being filled at local pharmacies in Clark and Floyd County while the remainder of the patients' medications were being filled by a facility pharmacy, namely Omnicare.
- 7) I then obtained records from the pharmacies where prescriptions were filled and found that, in all instances, Jennifer L. Daniel had picked up those prescriptions. I was able to determine this because Daniel signed for the medication and presented her driver's license, both of which are required for the retrieval of controlled substances.
- 8) Through the course of my investigation, I also ran an INSPECT report for Daniel. This report revealed two (2) prescriptions for Hydrocodone written for Daniel by Dr. Heimer. I retrieved the original written prescriptions from the pharmacy where they were filled and confirmed that the prescriptions were allegedly written for Daniel by Dr. Heimer and were picked up by Daniel from CVS Pharmacy #3962, Highway 311, Sellersburg, Clark County, Indiana, on January 2, 2019 (90 ct. Hydrocodone) and February 7, 2019 (90 ct. Hydrocodone).
- 9) On June 26, 2019, I conducted an audio recorded interview with Dr. Brian Heimer, the contracting physician for Southerncare Hospice. During the interview, Dr. Heimer explained to me the process for administering narcotics to hospice patients and stated that when patients are admitted to hospice care it is to provide care and comfort to the terminally ill. Heimer stated that part of this includes prescribing narcotics for pain control as the dying process can be painful. Heimer stated he would meet with Daniel and others bi-weekly for team meetings and during those meetings he would write out prescriptions for patients under his care. These written prescriptions would be given to the RN, in many cases, Daniel, who was then responsible for delivering them to the patient's caregiver or a nurse at the facility if the patient was a resident of a long term care facility and the third party caregiver or nurse would have them filled. Dr. Heimer also stated that at times Daniel would come to his private office in New Albany, Indiana to retrieve written prescriptions for patients if something was needed. I further asked Dr. Heimer if he had ever written any prescriptions for Daniel herself, and he stated that he had not. I presented to him the two (2) handwritten prescriptions I had retrieved from the pharmacy and Dr. Heimer stated that he did not write the prescriptions and that they appeared to be forged.
- 10) I visited all facilities where potential victims were identified and spoke with facility administrators. All stated that Daniel had never brought a prescription medication into the facility for a patient and that this would be against their protocol. All administrators stated they were familiar with Daniel and that protocol was for her to deliver the hand written prescriptions to the director of nursing or other staff nurse who would then have

the prescriptions filled by their in-house pharmacy and placed with the resident's other medications. The administrators also confirmed that the patients involved had other pain medications prescribed for them and there was no indication that Daniel's diversion of the medications resulted in patients experiencing uncontrolled pain.

- 11) On August 6, 2019, I conducted an audio recorded interview with Daniel in the New Albany Medicaid Fraud Control Office. Daniel voluntarily appeared in the office and was informed she was free to leave at any time. During the interview, Daniel told me that she had been terminated from Southerncare Hospice for "not following policy and procedure". When I presented Daniel with the information I had obtained regarding specific patients, Daniel admitted that she had taken the prescriptions to various local pharmacies, had them filled, and kept the controlled substances for herself. I further asked Daniel if Dr. Heimer had written her any prescriptions and she stated that she had written them for herself.
- 12) The evidence shows that Daniel exerted unauthorized control over medication prescribed by Dr. Brian Heimer for the terminally ill patients listed below:

Daniel obtained Hydrocodone prescribed for A.B., a resident of Clark Rehabilitation and Skilled Nursing, Clarksville, Clark County, Indiana from Kroger Pharmacy #0612, New Albany Plaza, New Albany, Floyd County, Indiana, without permission or authorization, and failed to deliver the medication to the patient:

11-20-18 90 ct. Hydrocodone – Acetaminophen 10/325 mg

Daniel obtained Hydrocodone prescribed for C.M., a resident of Lake Pointe Village in Scottsburg, Scott County, Indiana from CVS Pharmacy #10757, Blackiston Mill Road, Clarksville, Clark County, Indiana, without permission or authorization, and failed to deliver the medication to the patient:

12-10-19 90 ct. Hydrocodone – Acetaminophen 10/325 mg

On the following dates, Daniel obtained Hydrocodone prescribed for G.W., a resident of Riverview Village in Clarksville, Clark County, Indiana, from Meijer Pharmacy #220, Charlestown Road, New Albany, Floyd County, Indiana, without permission or authorization, and failed to deliver the medication to the patient:

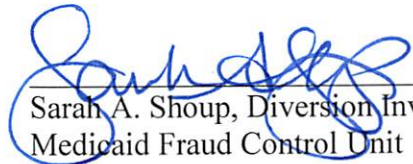
12-24-18 90 ct. Hydrocodone – Acetaminophen 10/325 mg
1-12-19 90 ct. Hydrocodone – Acetaminophen 10/325 mg
1-29-19 90 ct. Hydrocodone – Acetaminophen 10/325 mg
2-13-19 90 ct. Hydrocodone – Acetaminophen 10/325 mg
2-28-19 90 ct. Hydrocodone – Acetaminophen 10/325 mg
3-15-19 90 ct. Hydrocodone – Acetaminophen 10/325 mg
3-31-19 90 ct. Hydrocodone – Acetaminophen 10/325 mg
4-14-19 90 ct. Hydrocodone – Acetaminophen 10/325 mg
5-3-19 90 ct. Hydrocodone – Acetaminophen 10/325 mg

Daniel obtained Hydrocodone prescribed for M.K., a resident of Riverview Village in Clarksville, Clark County, Indiana from Meijer Pharmacy #220, Charlestown Road, New Albany, Floyd County, Indiana, without permission or authorization, and failed to deliver the medication to the patient:

4-18-19 90 ct. Hydrocodone – Acetaminophen 10/325 mg

- 13) This investigation reveals that on numerous occasions between November 20, 2018 and May 3, 2019, Jennifer L. Daniel, a “licensed health professional” as defined by IC 25-23-1-27.1, did knowingly or intentionally physically interrupt, obstruct, or alter the delivery or administration of a prescription drug, prescribed or ordered by a practitioner for a person who was a patient of the practitioner, in violation of I.C. 35-45-21-5(c)(2).
- 14) This investigation reveals that on numerous occasions between November 20, 2018 and May 3, 2019, Jennifer L. Daniel did knowingly or intentionally acquire possession of a controlled substance; to wit: Hydrocodone, by misrepresentation, fraud, forgery, deception, subterfuge, or concealment of a material fact, in violation of I.C. 35-48-4-14(c).
- 15) This investigation reveals that on January 2, 2019 and on or between February 6-7, 2019, Jennifer L. Daniel did, with the intent to defraud; make, utter, or possess a written instrument in such a manner that it purports to have been made by another person, or by authority of one who did not give authority, in violation of I.C. 35-43-5-2(d).

I swear, under the penalty for perjury as specified by I.C. 35-44.1-2-1 that the foregoing is true to the best of my information and belief.



Sarah A. Shoup, Diversion Investigator
Medicaid Fraud Control Unit
Indiana Attorney General