

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MADISON )

IN THE MADISON SUPERIOR COURT

CAUSE NUMBER:

STATE OF INDIANA

INFORMATION FOR:

V.

COUNT 1:

MELISSA FANNIN  
DOB: 02/08/1980

**Obtaining a Controlled Substance by Fraud**  
I.C. 35-48-4-14(c)  
A Level 6 Felony

COUNT 2:

**Furnishing False or Fraudulent Information**  
I.C. 35-48-4-14(b)(3)  
A Level 6 Felony

COUNT 3:

**Possession of a Narcotic Drug**  
I.C. 35-48-4-6 (a)  
A Level 6 Felony

**Count 1:**

The undersigned states that on or between January 16, 2023 and March 16, 2023 in Madison County, State of Indiana, Melissa Fannin did knowingly or intentionally acquire possession of a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or concealment of a material fact All of which is contrary to the form of the statutes in such cases made and provided by I.C. 35-48-14(c) and against the peace and dignity of the State of Indiana.

**Count 2:**

The undersigned states that on or between January 16, 2023 and March 16, 2023 in Madison County, State of Indiana, Melissa Fannin did knowingly or intentionally furnish false or fraudulent material information in or omit material information from a report or other document required to be kept or filed under I.C. 35-48 as to the documentation of the dispensing or administration of a controlled substance contrary to the form of the statutes in such cases made and provided by I.C. 35-48-4-14(b)(3) and against the peace and dignity of the State of Indiana.

**Count 3:**

The undersigned states that on or between January 16, 2023 and March 16, 2023 in Madison County, State of Indiana, Melissa Fannin did, without a valid prescription or order of a practitioner, knowingly or intentionally possess a narcotic drug (pure or adulterated) classified in schedule II; to wit: Hydromorphone and/or Morphine, contrary to the form of the statutes made and provided by I.C. 35-48-4-6 (a) and against the peace and dignity of the State of Indiana.

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.

/s/ Grainne L. Kao

Grainne Kao, 34660-49

Deputy Attorney General

Indiana Office of the Attorney General

Medicaid Fraud Control Unit

**Witnesses:**

Jack Beckley, MFCU

Denzil Lewis, CHN Investigator

Charlie Driver, CHN Investigator

Homand Bahrami, CHN Director of Pharmacy

Tamra Agayb, CHN RN Manager

Melissa Simpson, CHN Director of Nursing

Keeper of the Records, Community Hospital

<b>STATE OF INDIANA</b>	)	<b>IN THE MADISON SUPERIOR COURT</b>
	)	
<b>COUNTY OF MADISON</b>	)	<b>CAUSE NUMBER:</b>
<b>STATE OF INDIANA</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>MELISSA L. FANNIN</b>	)	

**AFFIDAVIT FOR PROBABLE CAUSE**

I, Jack Beckley, Supervising Investigator for the Office of the Indiana Attorney General, Medicaid Fraud Control Unit, have probable cause to believe that Melissa L Fannin, in the County of Grant, State of Indiana, did commit the following crimes:

IC 35-48-4-14(c) Obtaining a Controlled Substance by Fraud, a Level 6 Felony

I.C. 35-48-4-14(b)(3) Furnishing False or Fraudulent Information, a Level 6 Felony

I.C. 35-48-4-6 Possession of a Narcotic Drug, a Level 6 Felony

I am a Drug Diversion Investigator for the Office of the Indiana Attorney General, Medicaid Fraud Control Unit (MFCU). I serve as the Supervisor for the Drug Diversion Section within the MFCU. I am a graduate of the 137<sup>th</sup> Session of the Indiana Law Enforcement Academy (ILEA) and served with the Hartford City Police Department from 1998 to 2013. While with the Hartford City Police Department I was a Detective/Lieutenant, responsible for reviewing and approving departmental case reports and for directing criminal investigations, including but not limited to, offenses relating to scheduled and legend drugs within the County of Blackford. As Detective I was assigned to a multi-jurisdictional drug task force and was directly involved in numerous drug investigations that involved drug diversion, fraud, theft of controlled substances, drug trafficking, and medical practitioners overprescribing controlled substances or prescribing without medical necessity. I have received specialized training in the area of managing such investigations, interview and interrogation, and evidence collection.

- 1) 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 employees of Community Health Network and police records related to this investigation. I believe these witnesses to be truthful and credible.
- 2) 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.
- 3) Melissa Fannin was born February 8, 1980. She is a Registered Nurse (RN), License Number 28232931A, and was licensed in the State of Indiana on or about November 9, 2016.

As a Registered Nurse she is a “licensed health professional” as defined by Indiana Code 25-23-1-27.1.

- 4) Community Hospital Anderson (CHA) is located at 1515 Madison Ave, Anderson, IN 46011, in Madison County. CHA is registered with the Indiana State Board of Pharmacy to dispense controlled substances. Under both state (I.C. 35-48-3-3 (e)(1)) and federal law (21 C.F.R. 1301.22), Melissa Fannin is exempted from registering separately with the state or federal government to handle controlled substances due to being an authorized employee of a registered party, to wit: CHA, as long as she is acting in the usual course of her employment.
- 5) CHA and its employees or agents, acting in the usual course of their employment, are required to maintain complete and accurate records under both Indiana and Federal laws pertaining to the dispensation or administration of all controlled substances. Specifically, Indiana Code (I.C) 35-48-3-7 mandates that records be kept in conformance with the record-keeping requirements of federal law and regulation and with any additional rules the Indiana State Board of Pharmacy issues such as 856 IAC 1-28.1-12. Title 21 United States Code (U.S.C.) 827(a)(3) and Title 21 Code of Federal Regulations (C.F.R.) 1304.22 (21 C.F.R. §1304.22) require a complete and accurate record be maintained for the dispensing or administration of a controlled substance to a patient, including:
  - a. Number of units or volume of drug dispensed
  - b. Name and address of the person to whom it was dispensed
  - c. Date of dispensing
  - d. Number of units or volume dispensed
  - e. Written or typewritten name or initials of the individual who dispensed or administered the substance

In addition, Federal Regulation 21 C.F.R. § 1317.95(d) mandates any controlled substance that is removed for dispensing, but not actually given to the patient must be witnessed by another staff member and may be destroyed. If destroyed, then a drug destruction record must be made.

- 6) CHA and their in-house pharmacy utilize a Pyxis automated medication dispensing system to store and dispense medications to patients within their facility. Assigned nurses remove medications from the Pyxis machine per a physician order and dispense to the patients. Nurses remove medication from the Pyxis machine by way of a unique bio-identification (fingerprint) code used in conjunction with a unique identification number assigned to them. When drugs are removed from the Pyxis, and dispensed to a patient, the pyxis automatically creates a controlled substance record (CSR) which documents the date and time of the dispensing and the quantity of the drug remaining. The nurse completes a Medication Administration Record (MAR) in the hospital electronic medical record system (EMAR) by scanning the patient's wrist band and the dispensed medication.
- 7) A MAR is the report that serves as a legal record of the drugs administered to a patient by a health care professional. The MAR and the CSR are a part of a patients' permanent record in their medical chart. The health care professional is required to document in the MAR and the CSR each time that medication is administered. Any controlled substance that is removed from the Pyxis for dispensing, but not actually given to the patient must be witnessed by another staff member and may be destroyed. The staff member would then fill out a corresponding drug destruction record.

- 8) On March 9, 2023, Homand Bahrami, Director of Pharmacy for CHA, reported to Community Health Network (CHN) Investigator Denzil Lewis a concern of his regarding suspicious activity with the use and waste of hydromorphone by RN Melissa Fannin, a nurse assigned on their ONS Unit. Per Bahrami, Fannin's suspicious activity was showed up the previous week on a BlueSight report. BlueSight, also referred to as ControlCheck, is a controlled substance diversion prevention program (CSDPP) that includes clinically driven workflows, cross-departmental collaboration, and unsupervised machine learning analytics. Bahrami had previously notified RN Manager Tamra Agayb, who had begun to review the data and advised she would talk to Fannin's co-workers to see if they had any concerns with her behavior.
- 9) Investigator Lewis compiled the relevant information related to this issue and presented it to CHN's Drug Diversion Investigations Response Team (DDiRT) on March 15, 2023. Lewis reported to the Team that Fannin, in only three months with CHN, exhibited many different indicators consistent with drug diversion and drug abuse. Fannin was withdrawing hydromorphone 155% higher than the next RN in the same unit. She was excessively wasting full doses of controlled substances, 116% higher than next RN in the same unit, and briefly stopped this practice once it was mentioned in their Team meeting as being scrutinized. Fannin demonstrated "unreasonable time" between dispensing controlled substances, administering it, and wasting. For example, on one instance on February 7, 2023, she didn't waste/destroy medication, after pulling it, for nearly 7 hours. Fannin was back charting, failing to scan, and failing to administer medication and she had multiple withdraws of medication for as needed medication (PRN). Her documented pain scores were high and inconsistent with other entries from other shifts for the same patients. Co-workers noted that she was witnessed "dozing" off on shift and would not complete her four-hour assessments. The DDiRT unanimously decided this matter needed to be taken to the next step with an interview of Fannin.
- 10) Lewis and fellow CHN Investigator Charlie Driver interviewed Fannin on March 16, 2023, at CHA, at the end of her shift. During this interview Fannin initially denied any wrongdoing. When asked if she would ever give a patient something "outside of the doctor's order" she replied "no". When confronted with certain information Fannin simply could not provide an answer indicating she didn't know or didn't understand. Eventually, after being confronted with the evidence, Fannin admitted she had an addiction problem but added "I don't want to get in trouble".
- 11) When Fannin removed her jacket Lewis, Driver, and Director of Nursing Melissa Simpson saw injection marks on Fannin's right arm. Lewis noted that one mark looked "particularly inflamed" speculating this could be evidence of recent abuse. Fannin admitted to stealing drugs that very night while working. She stated she "used twice" on the shift she had just gotten off from. Fannin stated that she stole medication intended for the patient in room 273, who was later identified as R■■■■ B■■■■■. According to B■■■■■'s MAR, Fannin dispensed hydromorphone on (6) occasions during the shift in question. Fannin documented administering these same medications throughout the shift. The outlier involves the 00:29 withdraw. She failed to record this administration until 02:09.
- 12) Fannin also admitted that she would dilute hydromorphone and morphine with saline, explaining "that's usually what I always do". When asked if she was diluting the medication

or just not giving it to them, she replied “Not giving it all”. When asked again about the full doses she had wasted (she earlier claimed she wasted properly) the investigators asked if that was, in fact, saline being wasted in front of witnesses. Fannin replied that “it was water”.

- 13) Between January 16, 2023, and March 1, 2023, Fannin recorded (13) instances of full dose wasting, to include (12) hydromorphone and (1) morphine. As previously noted, during a pre-shift meeting on March 2, 2023, staff members were informed that full dose wasting is not within policy and it needed to stop occurring. Fannin ceased this practice until March 9, 2023, where she again violated policy and wasted (2) full doses of hydromorphone.
- 14) Fannin submitted to a Reasonable Suspicious Drug Screen on March 16, 2023. She tested positive for morphine, oxycodone, and oxymorphone.
- 15) This investigation reveals that on at least one occasion between January 16, 2023, and March 16, 2023, Melissa Fannin knowingly or intentionally furnished false or fraudulent material information in or omitted material information from a report or other document required to be kept or filed under I.C. 35-48 as to the documentation of the dispensing or administration of controlled substances in violation of I.C. 35-48-4-14(b)(3).
- 16) This investigation reveals on at least one occasion between January 16, 2023, and March 16, 2023, Melissa Fannin knowingly or intentionally acquired possession of a controlled substance; to wit: morphine and hydromorphone, by misrepresentation, fraud, forgery, deception, subterfuge, or concealment of a material fact in violation of I.C. 35-48-4-14(c).
- 17) This investigation reveals that on at least occasion January 16, 2023, and March 16, 2023, Melissa Fannin, without a valid prescription or order of a practitioner, did knowingly or intentionally possess a narcotic (pure or adulterated) classified in schedule I or II; to wit: hydromorphone and/or morphine, in violation of I.C. 35-48-4-6(a)(3).

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.

**/S/ Jack Beckley**

Jack Beckley, Diversion Investigator  
Supervisor, OAG-MFCU