

STATE OF INDIANA)
COUNTY OF HANCOCK) SS:
)

STATE OF INDIANA

v.

WENDY HAHN
DOB: 12/16/1970

IN THE HANCOCK SUPERIOR COURT 2

CAUSE NUMBER:

INFORMATION FOR:

COUNT 1:

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:

Theft
I.C. 35-43-4-2
A Class A Misdemeanor

Count 1:

The undersigned states that on or between September 3, 2022 and September 4, 2022 in Hancock County, State of Indiana, Wendy Hahn 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. 35-48-4-14(c) and against the peace and dignity of the State of Indiana.

Count 2:

The undersigned states that on or between September 3, 2022 and September 4, 2022 in Hancock County, State of Indiana, Wendy Hahn 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 September 3, 2022 and September 4, 2022 in Hancock County, State of Indiana, Wendy Sue Hahn did knowingly or intentionally exert unauthorized control over the property of Brandywine Care Center and/or AlixaRx pharmacy, to-wit: medication with the intent to deprive Brandywine Care Center and/or AlixaRx of any part of the use or value of the property contrary to the form of the statutes in such cases made and provided by I.C. 35-43-4-2(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

Witnesses:

Jack Beckley, MFCU Investigator
Doug Keith, Rush County Sheriff's Office
Jennifer Russell
Laura Guthrie
Kim Harriman
Kimberly Long
Colleen McCreary WArnick
Yvonne Cunningham
Rena Whichard
Keeper of the Records, Brandywine Care Center
Keeper of the Records, AlixaRx Pharmacy
Keeper of the Records, Castleton Health Care Center
Keeper of the Records, Rush County Sheriff's Office

STATE OF INDIANA)
) SS:
COUNTY OF HANCOCK)

IN THE HANCOCK SUPERIOR COURT
CAUSE NO:

STATE OF INDIANA)
)
VS.)
)
WENDY SUE HAHN)

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 Wendy S. Hahn, in the County of Hancock, State of Indiana, did commit the following crimes:

I.C. 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. 35-43-4-2 Theft, a Class A Misdemeanor

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 137th 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 the Rush County Sheriffs Office, Brandywine Care Center (BCC), and medical 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) Wendy S. Hahn was born December 16, 1970. She is a Registered Nurse (RN), License Number 28262890A, and was licensed in the State of Indiana on or about October 21, 2020. As an RN, as defined by Indiana Code 25-23-1-27.1, she is a "licensed health professional".

- 4) Brandywine Care Center (BCC) is located at 745 N Swope St, Greenfield, IN 46140 . BCC uses AlixaRx Pharmacy as their primary pharmacy. AlixaRx Pharmacy 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), Wendy Hahn 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: BCC, as long as she is acting in the usual course of her employment.
- 5) BCC, AlixaRx Pharmacy, 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 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 including 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) BCC and AlixaRx Pharmacy utilize an automated dispensing unit (ADU). The ADU is a medication packaging system that stores bulk oral solid medications (tablets and capsules) in canisters and packages and labels patient-specific, multi-dose packets. Medication canisters are stored in a locked storage unit that is only accessible to authorized pharmacy personnel. The pharmacy monitors the inventory and utilization and delivers canisters to the facility, where a local AlixaRx pharmacy service technicians receives the canisters and restocks the unit. When the nurse requests a medication from the ADU, the canister releases the medication down through a channel, where it is packaged with other medications for that patient and administration time. The ADU packages and labels the medications in patient-specific, multi-dose packets that are delivered to the nurse through a slot on the lower left door. AlixaRx also provided the facility with a Controlled Substance Accountability Sheet, also referred to as a Controlled Substance Record (CSR), where nurses maintain an inventory of each resident's medications.
- 7) A Medication Administration Record (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 medication cart or ADU for dispensing,

but not actually given to the patient, must be destroyed and done so with a witness. The staff member would then fill out a corresponding drug destruction record.

- 8) With the arrest of Wendy Hahn on March 18, 2023, officers of the Rush County Sheriff's office seized various prescription drugs that could not lawfully be connected to Hahn. Probable Cause was found on Hahn on March 20, 2023, for the offenses of Possession of Methamphetamine, Possession of a Narcotic Drug, Unlawful Possession of a Legend Drug, and Possession of Paraphernalia all under Cause Number 70D01-2303-F6-000147. The Rush County Sheriff's office reported this arrest to our office so we could investigate the origin of these drugs with alternate patient names. One drug, identified as doxycycline hydiate, was sealed in a package that contained patient information for F.B. █. This medication is not a controlled substance but does require a prescription. Listed on the packaging was the name of the pharmacist who filled this particular prescription. I was able to track down this pharmacist, identified as Jennifer Russell, to Alixa Rx. Alixa Rx is a pharmaceutical company that is known to manage prescriptions for various long term care facilities in the State of Indiana. Alixa Rx was then able to direct me to Castleton Health Care Center (CHCC) in Castleton as being the location where F.B. █ was staying. I arrived at CHCC on April 25, 2023. I met with DON Laura Guthrie and HR Director Kim Harriman. I explained the situation and served them a SDT where I requested records related to resident F.B. █ and any personnel records related to Wendy Hahn. Guthrie was immediately helpful in collecting the medical records for F.B. █ and Harriman found the file for Hahn. I learned that Hahn was employed at CHCC from March 1, 2022, to May 6, 2022. It was recorded as a "voluntary resignation", and she was considered to be "reliable". Harriman was not familiar with the circumstances related to the resignation as she was not working there at the time. From the information printed on the evidence seized from Hahn during her arrest we were able to discern that this particular medication was dispensed on March 22, 2022. Records from Point Click Care and F.B. █'s MAR we can see where Hahn pulled this medication and recorded the administration at 20:29 on March 22, 2022. This was a fraudulent entry.
- 9) Another drug, identified as hydrocodone, was sealed in a package that contained patient information for M.H. █. This medication is a Schedule II Controlled Substance. Listed on the packaging was the name of the pharmacist who filled this particular prescription. I was able to track down this pharmacist, identified as Kimberly Long, to AlixaRx as well. AlixaRx was able to direct me to Brandywine Care Center (BCC) in Greenfield as being the location where M.H. █ had been residing. M.H. █ has since passed away.
- 10) On April 26, 2023, I arrived at Brandywine Care Center and met with HFA Colleen McCreary Warnick and served her a subpoena. As I began explaining the situation Warnick asked if Yvonne Cunningham from the corporate office and Rena Whichard, the facility DON, could sit in on the discussion. Once we were together, I learned that Wendy Hahn was actually working at the facility as an agency nurse. Whichard explained that Hahn was contracted through MyShyft and had recently just returned to the facility for shift work. According to their records Hahn had worked 3rd shift on April 21, 22, 23, and 24 and was scheduled to come in this evening. Whichard cancelled Hahn's shift for that night and explained she was going to initiate an internal audit regarding Hahn's charting activity for the

recent shifts she worked. If any medications are shown to be unreconciled, she would let me know.

- 11) On May 31, 2023, I received the records from BCC requested in the subpoena served April 26, 2023. I review of these records shows where Hahn withdrew the hydrocodone for **M.H.** [REDACTED] and then recorded administering it to her on or about September 4, 2022. Since this tablet was confiscated by police on March 18, 2023, this entry was fraudulent as well.
- 12) This investigation reveals on at least one occasion between September 3, 2022, and September 4, 2022, Wendy Hahn knowingly or intentionally acquired 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).
- 13) This investigation reveals that on at least one occasion between September 3, 2022, and September 4, 2022, Wendy Hahn 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).
- 14) This investigation reveals that on at least one occasion between September 3, 2022, and September 4, 2022, Wendy Hahn did knowingly or intentionally exert unauthorized control over property of another person; to wit hydrocodone, valued less than \$750, with intent to deprive the other person of any part of its value or use, commits theft, a violation of I.C. 35-43-4-2.

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
Affiant, Jack Beckley
Diversion Investigator Supervisor
OAG-MFCU