

STATE OF INDIANA)
)SS:
COUNTY OF SHELBY)

IN THE SHELBY COUNTY _____ COURT
2019 Term

STATE OF INDIANA)
)
V.)
)
CAROLANN OLIPHANT)

AFFIDAVIT FOR PROBABLE CAUSE

I, Sherri Taylor, Investigator for the office of the Indiana Attorney General, Medicaid Fraud Control Unit, have probable cause to believe that Carolann Oliphant, in the County of Shelby, State of Indiana, did commit the following crimes:

- 1) IC 35-48-4-14(c)(3) Obtaining a Controlled Substance by Fraud, a Level 6 Felony
- 2) IC 35-48-4-14 (a)(3) Failure to Make, Keep, or Furnish Records, a Level 6 Felony
- 3) IC 35-43-4-2 Theft, a Level 6 Felony

I am an Investigator for the Office of the Indiana Attorney General, Medicaid Fraud Control Unit (MFCU). I graduated Magna Cum Laude from Florida Agricultural & Mechanical University with a Bachelor's degree in Criminal Justice. I have worked for the Indiana Attorney General's Office for the past 25 years. I have completed the Unit's specialized training at the Federal Law Enforcement Academy in Glynco, Georgia. I have also completed the specialized Investigators Special Course training through the Indiana Law Enforcement Academy in Plainfield, Indiana. I am an Accredited Healthcare Fraud Investigator through the National Health Care Anti-Fraud Association. I have extensive experience and training in investigating Medicaid Fraud cases as well as cases involving patient abuse, theft of patient property, and drug diversion by providers who work in facilities that receive Medicaid funding.

- 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 Major Hospital in Shelbyville and 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 securing an arrest warrant 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) Carolann Oliphant was born on February 22, 1984. She is a Registered Nurse (RN), holding Indiana License Number 28179769A, and was licensed in the State of Indiana

on July 14, 2008. Her nursing license status is currently on "Probation" for discipline related to a finding of "Failure to Keep Abreast of Current Professional Theory or Practice," as noted on the License Verification website. Oliphant was employed by Major Hospital from November 13, 2011 to July 1, 2017.

- 4) Major Hospital is located at 2451 Intelliplex Drive, Shelbyville, Indiana 46176. Major Hospital is registered with the Indiana State Board of Pharmacy to dispense controlled substances.
- 5) Under both state (I.C. 35-48-3-(e)(1)) and federal law (21 C.F.R. 1301.22), Major Hospital and its employees or agents, acting in the usual course of their employment, are required to maintain complete and accurate records 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. Title 21 United States Code and with any additional rules the Indiana State Board of Pharmacy issues. 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. ss 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.
- 6) Major Hospital and its in-house pharmacy utilize a Pyxis machine. Pyxis is a locked electronic dispensing machine for controlled substances, designed to restrict access to medications that are subject to abuse and diversion. Access to the Pyxis is limited to authorized personnel, who gain entry to the machine by entering a unique user ID and/or scanning their fingerprint. The user enters additional information, including the patient name and the identity and quantity of the drug retrieved, while the machine automatically records the date and time of the transaction. A registered nurse may only administer controlled substances when there is a corresponding order from a prescribing practitioner.
- 7) Once a medication is pulled out of the machine, the user must document its administration to the patient, or make an entry that otherwise accounts for it either being returned to the machine or "wasted"—which is the protocol for discarding unused medication in the presence of a witness. All of this data is required to be kept by law and is then available for creating various reports, which assist facilities with audits, keeping track of inventory, and monitoring user activity.
- 8) On June 26th, 2017, the Office of the Indiana Attorney General received a letter from Nicole Sparling ("Sparling"), Director of Human Resources for Major Hospital, reporting that Carolann Oliphant, RN ("Oliphant") admitted to stealing narcotics from the hospital's Emergency Room Pyxis machine.
- 9) Oliphant had been working at Major Hospital since November 13, 2011, but came under suspicion in June of 2017, after both maintenance staff and other nurses began

finding discarded syringes and medication vials in the trash at the nurses' station; in a patient room; and even near the retention pond outside. Major Hospital began running audits of narcotic medications, and discovered discrepancies involving drugs taken from the Pyxis by Oliphant.

- 10) On June 22, 2017, Major Hospital Director of Pharmacy Kelly Connolly ("Connolly") conducted an audit of Oliphant's Pyxis activity involving Dilaudid (brand name for Hydromorphone) between April 1, 2017 and June 22, 2017. Connolly found the following discrepancies:

- 6 instances where Oliphant pulled 1mg vials of Dilaudid, and half of the medication (0.5mg) was documented as being given to patient, but the other 0.5mg were never documented as wasted or returned;
- Oliphant pulled 14 vials of Dilaudid without a corresponding doctor's order, and did not record administration to a patient or waste of the medication, per protocol.

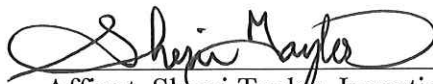
- 11) On June 23, 2017, Sparling, along with Linda Wessic (Chief Operating Officer/Chief Nurse Officer), and Krystal Hutchinson, (Emergency Room Director), confronted Oliphant with their findings regarding the missing Dilaudid. During that meeting, Oliphant became emotional, said she was "stupid" and "couldn't believe she let this happen." When Sparling took Oliphant for a drug screen, Oliphant admitted taking the patients' drugs from Major Hospital. Oliphant was subsequently terminated.

- 12) Connolly subsequently conducted an expanded audit of Oliphant's Pyxis activity from April 1-June 22, 2017, looking at additional controlled substances pulled by Oliphant. This audit revealed numerous additional discrepancies involving medications ordered for 90 different patients. According to Major Hospital Patient Financial Services Director, Mary Schene, the hospital subsequently reimbursed the affected patient accounts, resulting in a loss to the hospital as follows:

<u>DRUG</u>	<u>LOSS AMOUNT</u>
Sublimaze (Fentanyl)	\$2,550.21
Dilaudid (Hydromorphone)	\$ 437.52
Morphine 10mg vials	\$ 147.84
Morphine 4mg vials	\$ 35.41
TOTAL LOSS	\$3,170.98

- 13) This investigation reveals that between April 1 and June 22, 2017, Carolann Oliphant, while employed as a Registered Nurse at Major Hospital in Shelby County, Indiana, used her position to gain unauthorized access to numerous doses of controlled substances, which were unaccounted for after being in her possession. Her actions resulted in a loss to Major Hospital, which had to reimburse patient accounts to cover the costs of those missing medications.

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.


 Affiant, Sherri Taylor, Investigator
 OAG-MFCU