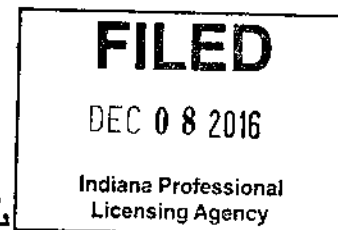


BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NUMBER: 2016 NB 0306

IN THE MATTER OF THE LICENSE OF:)
BRENDA C. MELVIN, L.P.N.,)
LICENSE NO: 27034905A)



**FINDINGS OF FACT, ULTIMATE FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER**

An administrative hearing was scheduled to be held on November 17, 2016, before the Indiana State Board of Nursing (“Board”) in the Auditorium of the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana 46204, regarding the Administrative Complaint filed against Brenda C. Melvin, L.P.N., (“Respondent”).

The State of Indiana (“Petitioner”) was represented by Patricia Gibson, Deputy Attorney General. Respondent failed to appear in person or by counsel.

On August 2, 2016, the Indiana Professional Licensing Agency sent notice to Respondent’s address on file informing Respondent of the date, time, and place of the prehearing settlement conference on the Administrative Complaint scheduled for September 15, 2016.

Petitioner was represented by Patricia Gibson, Deputy Attorney General. Respondent failed to appear in person or by counsel for the scheduled pre-hearing/settlement conference and a Notice of Proposed Default was issued on September 15, 2016. The Notice of Proposed Default Order was sent by U.S. mail to Respondent at her last reported address and an additional address on October 4, 2016. Respondent did not respond to the Order within the time specified by Indiana law.

The Board, after considering the evidence presented and taking official notice of its file in this matter, by a vote of 6-0-0, finds Respondent to be in **DEFAULT**. The Board, by another

vote of 6-0-0, issues the following Findings of Fact, Ultimate Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Respondent is a Licensed Practical Nurse (“L.P.N.”) in the State of Indiana having been issued license number 27034905A on May 29, 1992.

2. Respondent’s address on file with the Indiana Professional Licensing Agency is 143 Lakeshore Drive, Lebanon, Indiana 46052 another known address for Respondent is 1009 Clifford Street, Lebanon, Indiana 46052.

3. On May 23, 2013, Respondent was hired as an LPN by Loving Care Agency (“Loving Care”), a home health care company located in Indianapolis, Indiana.

4. On March 10, 2014, in an interview with Loving Care human resources, Respondent disclosed that she had unintentionally “nodded off” with a patient in her lap. Respondent denied sleeping on February 24, 2014, despite screen shots of text messages allegedly from a client’s acquaintance stating Respondent had fallen asleep twice that day.

5. On March 10, 2014, in an interview with Loving Care human resources Respondent disclosed that she documented administering medications at the prescribed times, rather than the times she actually gave the medications to the client.

6. On March 27, 2014, Respondent was scheduled to care for a client from 9:00 AM until 5:00 PM. Respondent left the home at 4:00 PM, transferring care to the client’s mother. Prior to leaving the home, Respondent wrote her documentation of the client’s care. At that time, she claimed that at 5:00 p.m., an hour after she left, the client’s pain was zero, the client was on room air, his airway was patent, and he received play/social stimulation.

7. On December 18, 2014, Respondent took two hydrocodone tablets from a client's mother's personal supply. Respondent did not have permission or authority to possess the client's mother's hydrocodone.

8. On December 20, 2014, Respondent disclosed to the client's mother that she took the pills and offered to replace the two hydrocodone tablets with two hydrocodone tablets she had recently received from her own prescription.

9. On December 30, 2014, Respondent's employment with Loving Care was terminated.

10. As of July, 2016, Respondent had a prescription for hydrocodone 10/325 tablets with instructions to take two (2) tablets three (3) times per day. Respondent received one hundred eighty (180) hydrocodone tablets on each of the following dates: January 21, 2015; February 19, 2015; March 19, 2015; April 17, 2015; June 11, 2015; August 5, 2015; August 31, 2015; September 23, 2015; October 16, 2015; November 19, 2015; December 17, 2015; January 14, 2016; February 11, 2016; March 9, 2016; April 7, 2016; May 4, 2016; and June 2, 2016.

ULTIMATE FINDINGS OF FACT

1. By her conduct in documenting that she had assessed her client's condition at 5:00 p.m., when she had left the client's home an hour earlier, Respondent used unsafe judgment and technical skills, and violated 848 IAC 2-3-3(1) and Ind. Code § 25-1-9-4(a)(3).

2. By her conduct in taking two hydrocodone tablets from a client's mother, Respondent diverted a legend drug and violated Ind. Code § 25-1-9-4(a)(8)(A).

3. By her conduct in taking two hydrocodone tablets from a client's mother Respondent diverted prescription drugs for own or another person's use, and violated 848 IAC 2-3-3(11) and Ind. Code § 25-1-9-4(a)(3).

CONCLUSIONS OF LAW

Respondent's violations are cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or revocation and a fine up to the amount of one thousand dollars (\$1,000) per violation as detailed in Ind. Code § 25-1-9-9.

ORDER

Based upon the above Findings of Fact, the Board issues the following Order:

Respondent's Indiana nursing license is hereby placed on **INDEFINITE SUSPENSION**.

1. Prior to petitioning for reinstatement of her Indiana nursing license, Respondent shall contact the Indiana State Nurses Assistance Program ("ISNAP"), and enter into a recovery monitoring agreement ("RMA"), and have **ONE (1) YEAR** of full and continuous compliance with her ISNAP RMA.

2. Prior to petitioning for reinstatement of her Indiana nursing license, Respondent shall pay a **FINE** in the amount of **TWO HUNDRED FIFTY DOLLARS (\$250.00)** payable to the Indiana Professional Licensing Agency. This fee shall be paid by check or money order and submitted to the following address:

Indiana Professional Licensing Agency
Attn. Nursing Group 2
402 West Washington Street Room W072
Indianapolis, Indiana 46204

3. Within ninety (90) days of the Final Order, Respondent shall, pursuant to Ind. Code § 4-6-14-10 (b), pay a fee of **Five Dollars (\$5.00)** to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund. This fee shall be paid by check or money order payable to the State of Indiana, and submitted to the following address:

Office of the Indiana Attorney General
Attn: Teresa Henson
302 West Washington Street, 5th Floor
Indianapolis, IN 46204

4. Respondent shall, within ninety (90) days of the Final Order, pay **COSTS** in the amount of **ONE HUNDRED SEVENTY FIVE DOLLARS AND SEVENTY CENTS (\$175.70)** payable to the Indiana Professional Licensing Agency. The costs, payable by check or money order, should be sent to:

Indiana Professional Licensing Agency
Attn: Nursing, Group 2
402 West Washington Street, Room W072
Indianapolis, Indiana 46204

5. Respondent's violation of this Final Order or any non-compliance with the statutes or regulations regarding the practice of nursing may result in Petitioner requesting a summary suspension of Respondent's license, an Order to Show Cause as may be issued by the Board, or a new cause of action pursuant to Ind. Code § 25-1-9-4, any or all of which could lead to additional sanctions, up to and including a revocation of Respondent's license.

SO ORDERED this 9th day of December, 2016.

INDIANA STATE BOARD OF NURSING

By: Herbert W. Price
Natalie Hall, R.N.
Board President
Indiana State Board of Nursing

for

CERTIFICATE OF SERVICE

I certify that a copy of the "Findings of Fact, Ultimate Findings of Fact, Conclusions of Law, and Order" has been duly served upon:

Brenda C. Melvin
143 Lakeshore Drive
Lebanon, Indiana 46052
Service by U.S. Mail

Brenda C. Melvin
1009 Clifford Street
Lebanon, Indiana 46052
Service by U.S. Mail

Patricia Gibson, DAG
Indiana Government Center South, Fifth Floor
302 West Washington Street
Indianapolis, Indiana 46204-2770
Service by Email

12.9.2016
Date


Lisa Chapman, Litigation Specialist

Indiana State Board of Nursing
Indiana Government Center South
402 West Washington St., Room W072
Indianapolis, IN 46204
Phone: 317-234-2043
Fax: 317-233-4236
Email: pla2@pla.in.gov

Explanation of Service Methods

Personal Service: by delivering a true copy of the aforesaid document(s) personally.

Service by U.S. Mail: by serving a true copy of the aforesaid document(s) by First Class U.S. Mail, postage prepaid.

Service by Email: by sending a true copy of the aforesaid document(s) to the individual's electronic mail address.