

BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NO.: 93 NB 017

STATE OF INDIANA,

Petitioner,

v.

MARCIA A. MILLER, L.P.N.,
License No. 27013057,

Respondent.

FILED

OCT 25 1993

HEALTH PROFESSIONS
BUREAU

FINDINGS OF FACT AND ORDER

The Indiana State Board of Nursing ("Board") held an administrative hearing on October 14, 1993 in rooms 4 and 5 of the Conference Center, Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana, concerning Marcia A. Miller's ("Respondent") Indiana nursing license.

The State of Indiana was represented by Andrew S. Peacock, Deputy Attorney General. Respondent appeared in person, acknowledged her right to be represented by counsel, and voluntarily proceeded without the assistance of an attorney.

The Board, after considering the evidence presented and taking official notice of its file in this case, by a vote of 8 to 0, issues the following Findings of Fact and Order:

FINDINGS OF FACT

1. Respondent, who resides at 66 N. 13th Avenue, Beech Grove, Indiana 46107, is a licensed practical nurse in the State of Indiana holding Indiana practical nurse license number 27013057.

2. Respondent received timely and proper notice of the State's Complaint and the hearing date and location in accordance with IC 4-21.5-3-8 and IC 4-21.5-3-20.

3. Beginning in July, 1980, Respondent was employed as a licensed practical nurse at St. Francis Hospital Center, 1600 Albany Street, Beech Grove, Indiana 46107.

4. On December 17, 1992, Respondent presented a prescription at the St. Francis Hospital Outpatient Pharmacy for thirty (30) Lortab 5mg tablets. The prescription was purportedly authorized by John G. Peters, M.D. Dr. Peters has privileges at St. Francis Hospital Center.

5. The prescription was filled and the medication was dispensed by Denise Owens, a staff pharmacist in the Outpatient Pharmacy.

6. Laurie Elmes, Manager of the Outpatient Pharmacy reviewed the prescription after the medication was dispensed. After reviewing the prescription, Elmes contacted Dr. Peters' office to verify that the prescription had in fact been authorized by Dr. Peters.

7. Dr. Peters did not write or authorize a prescription for Lortab 5mg tablets for Respondent.

8. Donna Pieper, Dr. Peters' nurse, did not write a prescription for Lortab 5mg tablets for Respondent.

9. On December 17, 1992, Elmes contacted Jerry McKeand, Manager of the Inpatient Pharmacy at St. Francis Hospital. The Inpatient Pharmacy is responsible for distributing blank prescription pads to the hospital floors. Prescrip-

tion pads at the hospital have a sequential numbering system unique to the hospital. McKeand found that the prescription number indicated that the prescription was from a pad of prescription blanks dispensed to the nursing unit on which Respondent worked.

10. The pharmacy notified Mary Sheets, Director of Medical-Surgical Nursing at St. Francis Hospital Center, that they suspected the prescription had been forged because the prescription contained an incorrect DEA number. The pharmacy explained to Sheets that the numbering system indicated that the prescription was from a pad of prescription blanks dispensed to the nursing unit on which Respondent worked.

11. On December 17, 1992, Mary Sheets confronted Respondent concerning the forged prescription.

12. Respondent admitted to Sheets that she had taken the prescription from the supply on her floor, had written the prescription, and had presented the prescription to the hospital pharmacy.

13. Respondent's employment was suspended. She was placed on indefinite leave of absence pending successful progress in a drug treatment program. Respondent entered an outpatient chemical dependency treatment program.

14. Respondent returned to work at St. Francis Hospital Center on January 20, 1993, after signing a contract requiring random drug screens. Pursuant to the terms of the agreement, Respondent did not have access to the narcotic lock box or keys, nor to the medications contained therein. This

arrangement was to continue until such time as deemed appropriate by Respondent's Nursing Manager and the counselor assigned to her treatment program.

15. Respondent subsequently violated the terms of her return to work agreement with St. Francis Hospital and relapsed in April of 1993.

16. Respondent entered inpatient treatment at Fairbanks Hospital, Indianapolis, Indiana, following her April of 1993 relapse. She successfully completed inpatient treatment in May of 1993.

17. Respondent has not used a controlled substance or alcohol since April 25, 1993.

18. Respondent testified at the October 14, 1993 hearing that she is an alcoholic and currently takes Antabuse daily. Respondent previously underwent treatment for alcohol abuse in 1989.

19. Respondent testified at the October 14, 1993, hearing that she began using pain medication in order to control pain from arthritis. Respondent stated that she currently controls her arthritis pain by taking ibuprofen. She has not seen a physician regarding her arthritis since completing chemical dependency treatment.

20. Respondent testified that she would not feel comfortable working around medication.

21. The Board has jurisdiction to hear this case and to impose disciplinary sanctions on Respondent's Indiana nursing license.

22. Respondent's conduct as described in Finding nos. 3 through 14 constitute engaging in fraud or material deception in the course of professional services in violation of IC 25-1-9-4(a)(1)(B); addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely in violation of IC 25-1-9-4(a)(4)(D); diversion of a legend drug in violation of IC 25-1-9-4(a)(8)(A); and knowingly violating a state statute or rule, or federal statute or regulation, regulating the profession in question in violation of IC 25-1-9-4(a)(3), specifically, unlawfully obtaining or attempting to obtain a legend drug or procure or attempt to procure the administration of a legend drug by the forgery or alteration of a prescription, drug order, or of any written order in violation of IC 16-6-8-3(f)(1)(B); making or uttering a false or forged prescription or false drug order or forged written order in violation of IC 16-6-8-3(f)(5); and, diverting prescription drugs for her own or another person's use in violation of 848 IAC 2-3-3(11).

23. The violations referred to in Finding no. 22 warrant the imposition of disciplinary sanction on Respondent's Indiana nursing license.

ORDER

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

1. Respondent's Indiana nursing license is **SUSPENDED INDEFINITELY**. Respondent shall not have the right to petition the Board for reinstatement of her nursing license until six (6) months from the date of this Order.

2. Respondent shall, at the time she applies for reinstatement of her license, submit to the Board a report from Dr. Rebecca Kelly evaluating Respondent's recovery and her ability to safely practice nursing.

SO ORDERED this 25 day of October, 1993.

INDIANA STATE BOARD OF NURSING

By:

Thomas J. Jeffers
Thomas J. Jeffers
Acting Executive Director
Health Professions Bureau

Copies to:

Marcia A. Miller
66 N. 13th Avenue
Beech Grove, Indiana 46107
SENT CERTIFIED MAIL NO. P-234-797-721
RETURN RECEIPT REQUESTED

Andrew S. Peacock
Deputy Attorney General
Indiana Government Center South
402 W. Washington Street, 5th Fl.
Indianapolis, IN 46204-2770

4956Ss