

BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NO.: 97 NB 015

STATE OF INDIANA,

Petitioner,

v.

ANDREA DAWN MITCHELL, L.P.N.,
License No. 27034915,

Respondent.

FILED

APR 06 1997

**HEALTH PROFESSIONS
BUREAU**

COMPLAINT

The State of Indiana ("Petitioner"), by counsel, Jeffrey A. Modisett, Attorney General of Indiana, by Andrew S. Peacock, Deputy Attorney General, pursuant to Ind. Code 25-1-7-7 (a) files its complaint against Andrea Dawn Mitchell, L.P.N. ("Respondent"), and in support alleges and states:

1. The Attorney General of Indiana is empowered to bring disciplinary complaints in the name of the State of Indiana before the Indiana State Board of Nursing ("Board") pursuant to Ind. Code 25-1-7 et seq.
2. The Board is charged with the duty and responsibility of regulating the practice of nursing pursuant to Ind. Code 25-23-1-7.
3. The Board is empowered to hold disciplinary hearings pursuant to the authority of Ind. Code 25-1-9-4 and Ind. Code 4-21.5-3 et seq.

COUNT I

1. Respondent's address is 434 West Morgan, Martinsville, Indiana, 46151.
2. Respondent is a duly licensed practical nurse in the State of Indiana holding license number 27034915.
3. On or about February 17, 1995, Respondent went to the WalMart Pharmacy, 1800 South Ohio St., Martinsville, Indiana and represented herself to be Irene May Blount. Respondent presented a prescription written for Irene May Blount on a prescription pad from and purportedly signed by Stephen L. Hardin, M.D. The prescription was for Lortab 7.5 mg (hydrocodone, a schedule III controlled substance) #50 with three refills.
4. Richard Kelly Merchant, R.Ph., the pharmacist on duty, noted that the signature on the prescription was unlike other prescriptions written by Dr. Hardin. Because of the signature discrepancy, Mr. Merchant contacted the physician's office to verify the prescription. Mr. Merchant also contacted the Martinsville Police Department.
5. Mr. Merchant was unable to reach Dr. Hardin. Mr. Merchant filled the prescription. Martinsville Police Officers Jeffrey C. Buskirk and Roger Wiltermood stopped Respondent outside the pharmacy area and asked her for identification. Respondent told the officers her name and advised that she had obtained the medication for someone else. Officer Buskirk then informed Respondent that he needed to speak with her.
6. Respondent admitted to Officer Buskirk that she had stolen a prescription pad from Dr. Hardin. She also admitted that she had stolen another prescription pad from Barbara LaMere-Heck, D.D.S. She further stated that she had a bad back and had been taking pain medications for quite a while. She admitted that she had forged prescriptions using the names of

both Dr. Hardin and Dr. LaMere-Heck including the hydrocodone prescription she had just obtained from the WalMart pharmacy.

7. On or about March 22, 1995, Respondent was charged with Obtaining a Controlled Substance by Misrepresentation in violation of Ind. code 35-48-4-14(c) and Ind. Code 35-50-2-7 in the Morgan Superior Court.

8. On or about February 12, 1996, Judge Thomas Gray of the Morgan Superior Court entered Judgment and Order Re: Sentencing in Case No. 55D01-9503-DF37, *State of Indiana v. Andrea Mitchell*. The Respondent was sentenced to eighteen months in the Morgan County Jail, however, the jail sentence was suspended except for twelve days at the Morgan County Jail and 60 days home detention. Additionally, Respondent was ordered to complete supervised probation for a period of eighteen months.

9. Attached and marked as Exhibit A is a true and accurate copy of the Judgment and Order Re: Sentencing in Case No. 55D01-9503-DF37, Judgment and Order Re: Sentencing in Case No. 55D01-9503-DF37, *State of Indiana v. Andrea Mitchell*.

10. Respondent's conduct constitutes conviction of a crime which has a direct bearing on her ability to continue to practice competently in violation of Ind. Code 25-1-9-4(a)(2) and continuing to practice although the practitioner has become unfit to practice due to addiction to, abuse of, or severe dependency upon alcohol or drugs that endangers the public by impairing her ability to practice safely in violation of Ind. Code 25-1-9-4(a)(4)(D).

COUNT II

1. On or about March 12, 1995 at 6:45 a.m., Respondent was arrested while traveling eastbound on Interstate 70 in Hancock County. The officer who arrested Respondent noted that

Respondent's vehicle was speeding and changing lanes unsafely. When the officer stopped Respondent's car, he noted that Respondent looked and acted intoxicated. Respondent admitted that she had been drinking. She further indicated that she was going to Martinsville although she was traveling in the other direction.

2. On or about March 12, 1995 at 7:50 a.m., Respondent submitted to a chemical test for the presence of alcohol. Respondent had a blood alcohol content of .14%.

3. On or about March 13, 1995, Respondent was charged with Operating a Vehicle While Intoxicated and Operating a Vehicle with More Than .10% Alcohol in her Blood in the Hancock Superior Court.

4. On or about May 5, 1995, Respondent pled guilty to Driving While Intoxicated in violation of Ind. Code 9-30-5-2. Respondent was sentenced to 365 days in the Hancock County Jail with credit for time served. The court suspended Respondent's sentence and placed her on probation for a period of one year.

5. Attached and marked as Exhibit B is a true and accurate copy of the docket sheet in Case No. 30D02 9503 CM 00233, *State of Indiana v. Andrea D. Mitchell*.

6. On or about September 22, 1996, Respondent submitted her nursing license renewal application to the Board. Respondent informed the Board of her conviction for Obtaining a Controlled Substance by Misrepresentation. Respondent failed to inform the Board of her conviction for Driving While Intoxicated.

7. Respondent's conduct constitutes conviction of a crime which has a direct bearing on her ability to continue to practice competently in violation of Ind. Code 25-1-9-4(a)(2); continuing to practice although the practitioner has become unfit to practice due to addiction to,

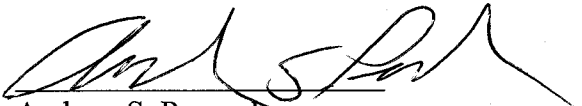
abuse of, or severe dependency upon alcohol or drugs that endangers the public by impairing her ability to practice safely in violation of Ind. Code 25-1-9-4(a)(4)(D); and fraud or material deception in order to obtain a license to practice in violation of Ind. Code 25-1-9-4(a)(1)(A).

WHEREFORE, Petitioner demands an order against Respondent, Andrea Dawn Mitchell, L.P.N., that:

1. Imposes the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all costs incurred in the prosecution of this case; and
3. Provides any further relief as the Board deems just and proper.

Respectfully Submitted,
JEFFREY A. MODISETT
Attorney General of Indiana

By:



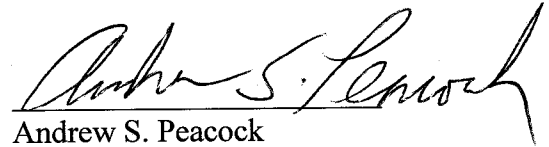
Andrew S. Peacock
Deputy Attorney General
Atty. No. 0015808-49

CERTIFICATE OF SERVICE

I certify that a copy of the "Complaint" has been duly served on the party listed below, by
United States mail, first-class postage prepaid, on this 4th day of April, 1997.

Andrea Dawn Mitchell, L.P.N.
434 West Morgan
Martinsville, Indiana 46151

By:



Andrew S. Peacock
Deputy Attorney General
Atty. No. 0015808-49

ASP/asp/135820

VS.

CASE NO. 55001-9503-DF37

COUNT 1

Andrea Mitchell
 DOB 12-24-66 SSN 313-88-3066

JUDGMENT AND ORDER RE: SENTENCING

On February 12, 19 96, the Court conducted the following proceedings in this case:

The Court having found on February 12, 19 96, that the defendant is guilty of the criminal offense of Obtaining A Controlled Substance By Misrepresentation, a class D felony, and having conducted a sentencing hearing

☒ at which time the Court considered a preplea/presentation investigation report previously filed.

The Court now renders judgment that the defendant is guilty of the above stated criminal offense as a class

D felony

The Court then ordered:

☒ the defendant be fined in the sum of \$ 1.00, and, in addition, Court costs in the amount of \$ 123.00 + 200.00 be paid; that the fine and costs be

☐ waived because the Court finds the defendant is an indigent person.

☐ paid _____ by the defendant to the Clerk of the Court or laid out at the rate of \$20 per day consecutive and additional to any other time being served.

☒ paid pursuant to an order of probation filed.

☒ the defendant be sentenced to imprisonment in the Morgan County Jail for a period of 18 months with a jail time credit for 1 days, and 2 days Class credit time;

☒ however, serving of said sentence was withheld and suspended so long as the defendant complies with an order of probation for a probationary period of 18 months

☒ except for a term of 72 days to be served in the Morgan County Jail (12 days at MCT and 60 days on Home Detention as a term of probation)

☒ that the sentence be served:

☐ concurrently with _____

☒ consecutively to Any other time

The Court further ordered:

☐ that the defendant's driving privilege be suspended for _____

☐ beginning _____, 19 _____ (the date of the administrative suspension).

☐ that the license suspension be stayed and the defendant is granted probationary driving privileges for 180 days after the 30 day mandatory administrative suspension.

☐ that count(s) _____ of the information be dismissed at the request of the State of Indiana.

☒ Bail:

☐ that any bail filed in this case be released.

☒ that cash bail in the amount of \$ 195.00 be transferred to the Morgan County Supplemental Public Defender's Fees Fund for reimbursement for Court appointed counsel and any additional bail remaining be released.

☒ that the defendant is to report to the Morgan County Jail on March 1, 1996 at 6:00 p.m.

The Court recommends:

That the defendant be confined under _____ security.

That the sentence be served in the 12 days MCT then 60 days on Home Detention as a term of probation.

Date: FEB 14 1996

Copies on 2-14-96 by LW to:

Judge G. Thomas Gray, Morgan Superior Court No. 1

☐ RIO
☐ Defendant
☐ Counsel, Joe

☒ Prosecutor
☐ File
☐ Bondsman

☒ Court Services
☒ Probation
☒ Home Detention

☒ Sheriff

☐ _____
☐ _____



STATE OF INDIANA
VS.

ORDER OF PROBATION

Andrea Mitchell

On Feb. 12, 1996, the following proceedings were conducted in this case: It is the Order of this Court that you are placed on Probation for a period of 16 months, beginning Today, 1996, and that you shall comply with the following conditions of Probation:

1. ☒ You shall cooperate at all times with the Probation Department. You shall report in person to the Probation Department:
 - ☒ today
 - ☐ within ___ days of this date
 - ☐ within ___ days of your release from imprisonmentand monthly thereafter or as directed by your Probation Officer.
2. ☒ You shall notify the Probation Department, in writing, within three (3) days of any change in your address or telephone number.
3. ☒ You shall not commit another crime or infraction. You shall notify the Probation Department, in writing, within three (3) days, if you are arrested or charged with any felony, misdemeanor, infraction, or traffic law violation.
4. ☒ You shall pay the following fees and costs in payments, as determined by the Probation Officer, to the Probation Department:
 - ☒ fines and costs in the amount of \$ 324.
 - ☒ initial probation user fee in the amount of \$ 100.
 - ☒ monthly probation user fee in the amount of \$ 15
 - ☐ beginning the ___ day of ___, 19__.
 - ☒ beginning the first day of the month following your release from incarceration.
 - ☐ restitution in the total amount of \$ _____ for the benefit of: _____
 - \$ _____ to _____ \$ _____ to _____
 - \$ _____ to _____ \$ _____ to _____
 - ☒ substance abuse evaluation fee.
5. ☒ You shall submit to a search of your person or property by any Probation or Police Officer at any time.
6. ☒ You shall not possess or consume any alcoholic beverages or any other drug except on the prescription of a licensed physician; nor shall you be in the immediate proximity of any person using marijuana, hashish, or any controlled substance.
7. ☐ You shall not go into any business or social club where alcoholic beverages are served.
8. ☒ You shall take a chemical test (as defined in I.C. 9-13-2-22) if requested by any Probation or Police Officer. You shall report to any designated location within one (1) hour after receiving notice to take a test. You shall pay for the first test and any fees incurred thereafter, if the test result indicates drug usage or dilution.
9. ☒ You shall attend, successfully complete, and pay all required fees for any counseling or treatment program recommended by the Probation Department.

10. ☐ You shall not drive or operate a motor vehicle until you acquire a valid driver's license.
11. ☐ You shall restrict the use of your driving privileges for a period of _____ to the essential requirements of your employment duties and the necessary driving to and from your place of employment by the closest direct route-at the times required by your hours of employment; and to and from a court-ordered treatment program; and for the following: _____
12. ☒ You shall not be found in any place other than your place of residence between the hours of 9p and 6a without good cause.
13. ☐ You shall seek gainful employment. You shall submit a list in writing, weekly, to the Probation Department of those places you have contacted seeking employment.
14. ☐ You shall maintain suitable employment. You shall notify the Probation Department within five (5) days of any changes in your employment status or place of employment.
15. ☐ You shall faithfully pursue a course of study as necessary to acquire your High School Diploma or your General Equivalency Diploma (G.E.D.).
16. ☐ You shall satisfactorily complete Vocational Training at _____
17. ☐ You shall successfully complete _____ days of community service as assigned and supervised by the Probation Department.
18. ☒ You shall comply with all the rules and regulations and other requirements of home detention or any alternative program or location in which you are allowed to serve your sentence in this case.
19. ☒ You shall serve 60 days on home detention as a condition of probation.
20. ☐ Other _____
21. ☐ Other _____

FEB 14 1996

G. Thomas Gray, Judge, Morgan Superior Court No. 1

I have read and understand the above conditions of probation and agree to comply with each of them. I agree that the conditions may be modified if the Court should decide to do so. If I violate a condition of probation, I understand that a petition to revoke probation may be filed during the period of probation. I also understand that a petition to revoke probation may also be filed within one (1) year after the termination of my probation or forty-five (45) days after the State receives notice of a violation, whichever is earlier. If the Court finds that I have violated any of the conditions of probation, the Court may revoke the suspended sentence and order that I serve all or any part of the suspended sentence. **WAIVER OF EXTRADITION:** If I leave the state of Indiana, with or without permission of my Probation Officer, I understand that as part of my probationary status, I waive (give up) my extradition rights and will voluntarily return to Indiana.

Signed this 12 day of Feb, 1996

Andrew Mitchell
Signature of Defendant

TX: 317, 342-6097

Address: 434 W Morgan

SSN: 313 88 3066

Martinsville

D.O.B.: 12-24-66

City: _____ St: Ind Zip: 46151

Copies on 2-14-96 by LW to: RJO Probation Prosecutor ☐ Defendant ☒ Counsel Jce

FILE DATE 09/20/95
PROBATION VIOLATION FILED BY ADA. DEFENDANT IS ORDERED TO APPEAR IN THE HAWCOCK
SUPERIOR COURT NO. 2 ON OCTOBER 13, 1995 AT 8:30A FOR HEARING ON THE PROBATION
VIOLATION. FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR THE ARREST OF
THE DEFENDANT. /jff

FILE DATE 10/13/95
DEFENDANT MOVES FOR A CONTINUANCE. CONTINUANCE GRANTED. COURT RESETS MATTER FOR TRIAL
JANUARY 25, 1996 AT 8:30 a.m. /jff

FILE DATE 01/25/96
DEFENDANT APPEARS AND REQUESTS EXTENSION OF TIME TO PAY FINES AND COURT COSTS. MOTION
GRANTED. DEFENDANT IS GIVEN TO AND INCLUDING MAY 15, 1996 AT 8:30 A.M. TO PAY FINES
AND COURT COSTS. PROBATION VIOLATION DISMISSED. KC

FILE DATE 05/14/96
COMES NOW THE COURT AND FINDS THAT DEFENDANT HAS SUBMITTED MONEY ORDER OF \$250.00.
CLERK IS ORDERED TO APPLY \$218.00 TO FINES AND COURT COSTS AND THE BALANCE OF \$32.00
TO ADULT PROBATION USER FEES. LEAVING A BALANCE OF \$138.00 OF PROBATION USER FEES.
FINES AND COURT COSTS PAID IN FULL.

MEL

FILE DATE 01/17/97
USER FEES WAIVED. KF