

BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NUMBER: 2016 NB 0572

IN THE MATTER OF THE LICENSE OF:)
)
WAYNE MOENKHAUS, R.N.,)
)
LICENSE NO: 28134424A)



FINAL ORDER

Mary Rock, R.N., designated by the Indiana State Board of Nursing ("Board"), pursuant to Ind. Code § 4-21.5-3-9 to act as an administrative law judge ("ALJ") held an administrative hearing on November 2, 2017, concerning Wayne Moenkhaus' request to withdraw the probation from his license as a nurse.

A copy of the ALJ's "Recommended Findings of Fact, Conclusions of Law and Order" is attached hereto as **Exhibit A** and made a part hereof.

Pursuant to Ind. Code § 4-21.5-3-29(c) the Board, at its meeting of December 14, 2017, votes 7 to 0 to affirm said Recommended Findings of Fact, Conclusions of Law and Order and adopt it as a final order in this proceeding.

The **PROBATION** on Moenkhaus' license is **WITHDRAWN**.

ISSUED this 18th day of December 2017.

INDIANA STATE BOARD OF NURSING

By: Maurice Bennett
Jo Kim Cooper, R.N.
Board President
Indiana State Board of Nursing

CERTIFICATE OF SERVICE

I certify that a copy of the "Final Order" has been duly served upon:

Wayne Moenkhaus, R.N.
4157 North County Road 300 West
West Paoli, IN 47454
Service by U.S. Mail

Lorie Brown, Esq.
6214 Broadway Street
Indianapolis, IN 46220
Service by U.S. Mail

Stacy Oliver
Attorney General's Office
302 West Washington Street
IGCS – 5th Floor
Indianapolis, IN 46204
Service by Email

12.18.2017
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
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Explanation of Service Methods

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BEFORE THE INDIANA STATE
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IN THE MATTER OF THE LICENSE OF:)
WAYNE MOENKHAUS, R.N.,)
LICENSE NO: 28134424A)

FILED

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Indiana Professional
Licensing Agency

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

Mary Rock, R.N., designated by the Indiana State Board of Nursing ("Board") pursuant to Ind. Code § 4-21.5-3-9 to act as an administrative law judge ("ALJ") held an administrative hearing on November 2, 2017, in Conference Room 4 of the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana, concerning Wayne Moenkhaus' request to withdraw the probation from his license as a nurse.

Moenkhaus appeared in person and by counsel, Lorie Brown. Stacy Oliver of the Attorney General's Office represented the State of Indiana.

The ALJ, after considering the evidence presented and taking official notice of the file in this matter issues the following Recommended Findings of Fact, Conclusions of Law and Order:

RECOMMENDED FINDINGS OF FACT

1. Moenkhaus, whose mailing address is 4157 North County Road 300 West, Paoli, Indiana 47454 is a registered nurse with license number 28134424A.

Exhibit
A

2. Moenkhaus received timely and proper notice of the date, time, and location of this hearing pursuant to Ind. Code § 4-21.5-3-20.

3. The Board is empowered to hold this administrative hearing pursuant to the authority of Ind. Code § 25-1-9-9 and Ind. Code ch. 4-21.5-3.

4. The Board renewed Moenkhaus' license as a registered nurse on probation in December 2011 for the following reasons. In May 2010 his employer terminated him for violation of a three-strikes-and-you're-out policy concerning patient care and complaints. Moenkhaus did not deny that the complaints were made but maintained they lacked merit.

5. In May 2017 Moenkhaus requested that the probation be withdrawn from his license.

6. At the hearing on withdrawal of probation, Moenkhaus presented evidence that he had complied with the terms of his probation which included practicing nursing for over nine months. His current employer holds him in very high regard.

7. Early in his employment history with his current employer, however, he was disciplined for excessive tardiness as well as an allegation of patient abuse. The allegations were later shown to be unsubstantiated.

8. The deficiency that led to the probation on Moenkhaus' license involved substandard practice. Moenkhaus' compliance with his probation constitutes evidence that the deficiency that required probation has been remedied.

RECOMMENDED CONCLUSIONS OF LAW

1. "The board may withdraw or modify the probation ... if it finds, after a hearing, that the deficiency that required disciplinary action has been remedied, or that changed circumstances warrant a modification of the order." Ind. Code § 25-1-9-9(b).

2. Moenkhaus' compliance with his probation constitutes evidence that the deficiency that required probation has been remedied.

RECOMMENDED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the ALJ recommends the Board **WITHDRAWS** the **PROBATION** on Moenkhaus' license.

SO ORDERED, this 21st day of November 2017.

ADMINISTRATIVE LAW JUDGE
INDIANA STATE BOARD OF NURSING

By: Maureen Bennett
for Mary Rock, R.N.
Administrative Law Judge
Indiana State Board of Nursing

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**NOTICE OF RIGHT TO OBJECT TO RECOMMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

Either party may object to the ALJ's Recommended Findings of Fact, Conclusions of Law and Order: but any objection must be filed with the Indiana State Board of Nursing, identifying the basis of the objection with reasonable particularity, no later than eighteen days from the ISSUANCE of this order unless such date is a Saturday, a Sunday, a legal holiday under state statute or a day that the Indiana Professional Licensing Agency offices are closed during regular business hours in which case the deadline would be the first day which is not a Saturday, a Sunday, a legal holiday under state statute or a day that the Indiana Professional Licensing Agency offices are closed during regular business hours. The ALJ's Recommended Findings of Fact, Conclusions of Law and Order is not the final order of the Indiana State Board of Nursing in this proceeding. In the absence of any objection, the Indiana State Board of Nursing may affirm the ALJ's Recommended Findings of Fact, Conclusions of Law and Order as its final order or will serve notice of its intention to review any issue related to the ALJ's Recommended Findings of Fact, Conclusions of Law and Order.

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CERTIFICATE OF SERVICE

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

Wayne Moenkhaus, R.N.
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Paoli, IN 47454
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11-21-2012
Date

Lisa Chapman
Lisa Chapman, Litigation Specialist

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