

BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NO: 2016 NB 319

IN THE MATTER OF THE LICENSE OF:)
KELLEY ALYSN NICKEL, R.N.,)
LICENSE NO: 28076867A)

FILED
AUG 31 2016
Indiana Professional
Licensing Agency

**ORDER ACCEPTING PROPOSED AGREEMENT TO
SUMMARY SUSPENSION OF
RESPONDENT'S NURSING LICENSE**

The State of Indiana ("Petitioner"), by the Office of the Attorney General, by Drake T. Land, Deputy Attorney General, Kelley Alysn Nickel, R.N. ("Respondent"), and Respondent's counsel, Michael J. Tuszynski signed a Proposed Agreement to Summary Suspension of Respondent's Nursing License ("Agreement") which purports to resolve all issues involved in the Summary Suspension Petition filed by the Petitioner, and which Agreement has been submitted to the Board for approval. By agreement both parties consent that Respondent's nursing license shall be **SUMMARILY SUSPENDED** for Ninety (90) days.

The Board after reviewing the Agreement at the August 18, 2016, meeting, held in the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana 46204, now finds it has been entered into fairly and without fraud, duress, or undue influence, and is fair and equitable between the parties. The Board hereby incorporates the Agreement which is attached hereto and incorporated herein as **Exhibit A** and approves and adopts in full the Agreement as resolution of the Summary Suspension Petition filed by the Petitioner. The Board approved this Agreement by a vote of 6-0-0. Incorporated into the Agreement was the consensus of both parties to a Stipulated Finding of Facts.

WHEREFORE, the Board hereby accepts and approves the Agreement settling all matters in the Summary Suspension Petition filed by the Petitioner consistent with the terms of the Agreement between the parties, and Respondent is hereby ORDERED to abide by all the terms of the Agreement.

SO ORDERED, this 31st day of August, 2016.

INDIANA STATE BOARD OF NURSING

By: Maureen Bennett
for Natalie Hall, R.N.
Board President
Indiana State Board of Nursing

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CERTIFICATE OF SERVICE

I certify that a copy of the "Order Accepting Proposed Agreement to Summary Suspension of Respondent's Nursing License" has been duly served upon:

Kelley Alysn Nickel
64264 Cassopolis Road
Cassopolis MI 49031
Service by U.S. Mail

Kelley Alysn Nickel
c/o Michael J. Tuszynski
Stanley, Tuszynski & Newman
220 W. Colfax Avenue, Ste. 600
South Bend, IN 46601
Service by U.S. Mail

Drake T. Land
8005 Castleway Drive
Indianapolis, Indiana 46250
Drake.Land@atg.in.gov
Service by Email

Aug 31 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

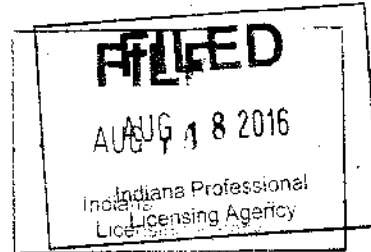
Personal Service: by delivering a true copy of the aforesaid document(s) personally.

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.

BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NUMBER: 2016 NB 0319

IN THE MATTER OF THE LICENSE OF)
)
KELLEY ALYSN NICKEL, R.N.)
)
LICENSE NO: 28076867A)
ACTIVE)



PROPOSED AGREEMENT TO SUMMARY SUSPENSION OF
RESPONDENT'S NURSING LICENSE

The Petitioner, the State of Indiana, by Drake T. Land, Deputy Attorney General ("Petitioner"), Kelley Alysn Nickel, R.N. ("Respondent"), and Respondent's counsel, Michael J. Tuszynski, hereby execute this Agreement in regards to the Petition for Summary Suspension of Respondent's nursing license that was filed on or about August 15, 2016. This Agreement is subject to the review and approval of the Indiana State Board of Nursing ("Board") and the Administrative Orders and Procedures Act, Ind. Code § 4-21.5-3. *et seq.* In the event that the Agreement is not approved by the Board, this Agreement shall be null and void and, in accordance with Indiana Rule of Evidence 408, may not be introduced into evidence in any civil, criminal or administrative proceeding.

STIPULATED FINDING OF FACTS

1. The Attorney General of Indiana is empowered to bring disciplinary complaints in the name of the State of Indiana before the Board pursuant to Ind. Code § 25-1-7 *et seq.*
2. This Board has jurisdiction to suspend Respondent's license in accordance with the provisions of Indiana Code § 4-21.5-4 *et seq.* and Indiana Code 25-1-9-10.

Exhibit
A

3. Respondent is a licensed Registered Nurse in the State of Indiana holding license number 28076867A, having received her license on or about April 25, 1980. Respondent's address on file with the Professional Licensing Agency is 64264 Cassopolis Road, Cassopolis, Michigan 49031.

4. At all pertinent times Respondent was employed as a Nurse by Healthwin Specialized Care ("Healthwin") in South Bend, Indiana.

5. On June 16, 2016, Respondent was suspended when it was discovered that Respondent had been diverting Fentanyl patches from a resident of Healthwin.

6. In a signed statement sent to the Office of the Indiana Attorney General on July 26, 2016, Respondent stated; "I am a recovering alcoholic. Recently, I had stopped attending AA meetings regularly and stopped communication with my sponsor. While at work, another nurse was throwing away used patches in the trash. This opportunity, in conjunction with the separation from AA and its support, was the tipping point and I began to use the patches. On the date in question, I altered a used patch and took the active patch."

7. On June 30, 2016, Respondent participated in an interview with Sgt. Regis Thimons of the St. Joseph County Police. After being Mirandized and signing a waiver of rights Respondent admitted that she began diverting when a used fentanyl patch was left in the trash of a resident's room. Respondent stated she quickly became addicted to the fentanyl. Respondent stated that she would estimate that over the course of three (3) or four (4) months she took twenty (20) to thirty (30) patches either from the resident's body or from the trash. Respondent admitted that she would keep the an old patch, change the date and initials on the patch to make it appear new, remove the new patch from the resident, and place the old, altered patch on the resident.

8. Respondent has undergone an evaluation but has not yet entered a Recovery Monitoring Agreement with the Indiana State Nurses Assistance Program.

9. Respondent has been previously disciplined by this Board in relation to an August 19, 2005 Operating While Intoxicated Conviction under cause number 2011 NB 118.

STIPULATED CONCLUSIONS OF LAW

1. The agreement of the parties as stated above establishes a sufficient factual and legal basis for the suspension of the Respondent's nursing license pursuant to Ind. Code 25-1-9-10.

WHEREAS, this matter is set for hearing before the Board; and

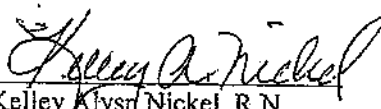
WHEREAS, the Respondent and Petitioner wish to resolve this matter prior to a hearing and have reached a resolution.

IT IS NOW THEREFORE AGREED by Respondent and Petitioner as follows:

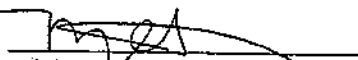
TERMS AND CONDITIONS

1. The Board has jurisdiction over the Respondent and the subject matter in this action commenced on or about August 15, 2016.
2. The parties execute this Agreement voluntarily.
3. Respondent and Petitioner voluntarily waive their rights to a public hearing on the Petition and all other proceedings in this temporary action to which either party may be entitled by law, including judicial appeal or review.
4. Respondent has carefully read and examined this Agreement and fully understands its terms and that, subject to a final order issued by the Board, this Agreement is a final disposition of the Petition and not subject to further review.
5. Respondent's nursing license shall be **SUMMARILY SUSPENDED** for ninety (90) days.
6. The parties agree to the continuing jurisdiction of the Board.

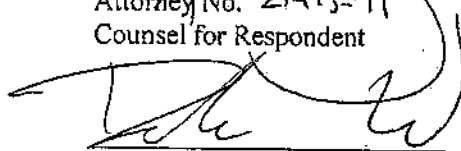
8/16/16
Date


Kelley Alysse Nickel, R.N.
Respondent

8-16-2016
Date


Michael J. Tuszynski
Attorney No. 21415-71
Counsel for Respondent

8/16/2016
Date


Drake T. Land
Attorney No. 32656-30
Deputy Attorney General