

BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NUMBER: 2001 NB 046

STATE OF INDIANA,

Petitioner,

v.

MARY BERNADETTE O'LEARY, R.N.,
License Number: 28079906,

Respondent.

FILED

NOV 18 2004

HE

AS

FINDINGS OF FACT AND ORDER

The Indiana State Board of Nursing ("Board"), held an administrative hearing on September 16, 2004 in the Auditorium of the Conference Center, Indiana Government Center South 302 West Washington Street, Indianapolis, Indiana, concerning a disciplinary complaint filed against Mary Bernadette O'Leary, R.N. ("Respondent").

The State of Indiana was represented by Deputy Attorney General Shelley M. Johnson. The Respondent failed to appear in person or by counsel.

The Board, after considering the evidence presented and taking official notice of its file in this matter, by a vote of 6-0-0 found the Respondent to be in default. The Board then held further proceedings in Respondent's absence, and, by a vote of 6-0-0, issues the following Findings of Fact and Order:

FINDINGS OF FACT

1. Respondent is a registered nurse in the State of Indiana holding license number 28079906.
2. Respondent's address on file with the Board is 1615 Sunnymede Avenue, South

Bend, Indiana 46615.

3. On or about October 28, 2002, Respondent telephoned the Indiana State Nurses Assistance Program (ISNAP) to pursue admission. At that time, she reported being sober for five (5) years. Respondent's Indiana nursing license had been placed on probation several years prior and she did not think that she wished to practice nursing again. Respondent reported a history of diversion and wanted to pursue ISNAP prior to going back into nursing.

4. On or about December 10, 2002, a Recovery Monitoring Agreement was developed for the Respondent.

5. On or about January 27, 2002, Respondent returned her signed, notarized Recovery Monitoring Agreement.

6. On or about July 21, 2003, Respondent obtained employment at Methodist Hospital. Respondent's employer was aware of her controlled substance restriction.

7. On or about November 11, 2003, Respondent left a voice mail message for ISNAP stating she had an emergency appendectomy and was released from the hospital on November 7, 2003.

8. On or about March 16, 2004, Respondent telephoned ISNAP and asked to have her controlled substance restriction lifted.

9. On or about March 24, 2004, Respondent telephoned and left a voice mail message that she "needs" to have her controlled substance restriction lifted. She telephoned on March 18, 2004 and March 19, 2004 and left similar messages. A message was left for the Respondent that she would need to obtain a letter of support from her sponsor, physician and worksite monitor to have her controlled substance restriction lifted.

10. On or about March 24, 2004, ISNAP spoke to Respondent's worksite monitor and

director of nursing who expressed concern over the details surrounding the Respondent's appendectomy.

11. On or about April 5, 2004, Respondent telephoned ISNAP and immediately went into a discussion about having her controlled substance restriction lifted. ISNAP asked her about her appendix. Respondent admitted that she was driving and had an attack of appendicitis and was not able to continue driving. Respondent pulled her vehicle into a parking lot and asked a pedestrian to call an ambulance. The police arrived to the scene before the ambulance and administered a breathalyzer test. It was confirmed by the police that the Respondent had been drinking.

12. On or about April 5, 2004, Respondent stated that she had stomach pain for five months and was not able to get a diagnosis to ease the pain. She had been charged with a DUI and her driver's license had been placed on probation for six (6) months.

13. On or about April 9, 2004, Respondent's urine drug screen tested positive for Darvon for the specimen collected on March 23, 2004.

14. On or about April 14, 2004, Respondent left town without notifying ISNAP and ISNAP confronted her about her positive urine drug screen. Respondent denied using Darvon.

15. On or about April 23, 2004, ISNAP received a letter from the Respondent stating she was resigning from her job as well as from nursing.

16. On or about June 10, 2004, Respondent's case was closed by the clinical team of ISNAP.

17. On July 7, 2004, an Order to Show Cause was issued by the Board.

18. On or about July 7, 2004, the Health Professions Bureau sent notice to

Respondent by certified mail to her last known address, of the date, time and location of the show cause hearing scheduled for July 15, 2004. The notice was signed by Respondent on July 10, 2004.

19. Pursuant to Indiana Code § 4-21.5-3-20, Respondent was provided adequate notice of the show cause hearing and failed to appear for the scheduled hearing on July 10, 2004.

20. On August 25, 2004, the Board issued a Notice of Proposed Default Order. That Notice was mailed by certified mail to the Respondent at her last known address. Said notice was signed by Respondent on August 30, 2004.

21. Respondent failed to respond to the Board's Notice of Proposed Default Order within seven (7) days as required by Indiana Code § 4-21.5-3-24.

ULTIMATE FINDINGS OF FACT

Respondent's conduct constitutes violations of Indiana Code § 25-1-9-4(a)(1) in that she has failed to comply with an order imposing a sanction issued by the Indiana State Board of Nursing; Indiana Code § 25-1-9-4(a)(4)(D) in that the practitioner has continued to practice although the practitioner has become unfit to practice due to 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.

ORDER

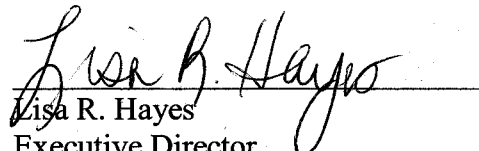
Based upon the above Findings of Fact, the Board issues the following Order:

1. Respondent is held in default, pursuant to Indiana Code §4-21.5-3-24.
2. Respondent's Indiana nursing license is placed on **INDEFINITE SUSPENSION**, Respondent may not seek reinstatement of her Indiana nursing license until she has signs a contract with the Indiana State Nurses Assistance Program and has demonstrated compliance for a period of at least three (3) months.

SO ORDERED, this 10th day of November, 2004.

INDIANA STATE BOARD OF NURSING

By:


Lisa R. Hayes
Executive Director
Health Professions Bureau

Copies to:

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