

**BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NUMBER: 2011 NB 118**

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

FILED

JUN 07 2011

Indiana Professional
Licensing Agency

**STIPULATED FINDINGS OF FACT, STIPULATED CONCLUSIONS OF LAW,
ULTIMATE CONCLUSIONS OF LAW, AND ORDER**

The State of Indiana (“Petitioner”), by Deputy Attorney General David A. Fleischhacker, and Kelley Alysnn Nickel, R.N. (“Respondent”) signed a Settlement Agreement (“Agreement”), which purports to resolve all issues involved in this action by Petitioner and the Indiana State Board of Nursing (“Board”) regarding Respondent’s license, and which Agreement has been submitted to the Board for approval.

The Board, after reviewing the Agreement at the May 19, 2011 meeting, 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 as fully set forth herein and approves and adopts in full the Agreement as a resolution of this matter. The Board approved this Agreement by a vote of 5-0-1. The Board hereby issues the following Stipulated Findings of Fact, Stipulated Conclusions of Law, Ultimate Conclusions of Law, and Order.

STIPULATED FINDINGS OF FACT

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. The Board is empowered to hold disciplinary hearings pursuant to the authority of Ind. Code § 4-21.5-3 *et seq.*

3. The Board is charged with the duty and the responsibility of regulating the practice of nursing pursuant to Ind. Code § 25-23 *et seq.*

4. Respondent's address on file with the Indiana Professional Licensing Agency is 64264 Cassopolis Road, Cassopolis, Michigan 49031. Respondent is a Registered Nurse in the State of Indiana having been issued License Number 28076867A in 1980.

5. Respondent obtained a Registered Nurse license in the state of Michigan in 1991 having been issued License Number 4704187430L. Respondent's Michigan nursing license expired in May 2007.

6. On or about July 30, 2005, Respondent was arrested and charged with Operating While Intoxicated ("OWI") in Cass County, Michigan.

7. On or about August 19, 2005, Respondent was convicted of OWI in Cass County, Michigan.

8. On or about October 20, 2005, Respondent renewed her Indiana nursing license, answering "No" to question number three (3) which asks, "Since you last renewed, have you been charged with or convicted of a crime, or have charges been dismissed?"

9. On or about April 4, 2006, Respondent voluntarily entered a substance treatment program at Hazelden Treatment Center in Center City, Minnesota.

10. On or about September 22, 2006, and September 29, 2006, Respondent was evaluated by a provider in the State of Michigan Health Professional Recovery Program ("HPRP") and was diagnosed with alcohol dependence, with physiological dependence, and with major depression. Respondent further admitted during evaluation that she had been terminated from a teaching position for drinking during her lunch period and being intoxicated at work.

11. On or about October 18, 2006, Respondent entered into a three-year, non-disciplinary monitoring agreement with HPRP.

12. On or about February 14, 2007, Respondent requested by letter that HPRP close her file, indicating she no longer wanted to participate in the program. HPRP closed Respondent's file for non-compliance and forwarded Respondent's file to the Michigan Department of Community Health.

13. On or about May 1, 2007, an Administrative Complaint against Respondent's Michigan nursing license was filed with the Michigan Board of Nursing ("Michigan Board"). That same day, the Michigan Board summarily suspended Respondent's Michigan nursing license.

14. On or about August 14, 2007, the Michigan Board dissolved Respondent's summary suspension. The Michigan Board then ordered Respondent's Michigan nursing license suspended for a minimum of one day and that it would remain suspended until Respondent entered HPRP. The Michigan Board further ordered that in the event Respondent's Michigan nursing license is reinstated, Respondent would be placed on a two-year probation.

15. On or about October 24, 2007, Respondent renewed her Indiana nursing license, answering "No" to question number one (1) which asks "Since you last renewed, has any professional license, certificate, registration, or permit you hold or have held been disciplined or are formal charges pending?"

16. On or about November 13, 2007, Respondent signed a monitoring agreement with HPRP.

17. On or about March 1, 2010, Respondent received confirmation of closure of her monitoring with HPRP.

18. On or about November 2010, the Indiana State Nurses Assistance Program determined Respondent did not require monitoring in Indiana.

STIPULATED CONCLUSIONS OF LAW

1. Respondent's conduct violated two (2) counts of Ind. Code § 25-1-9-4(a)(1)(A).
2. Respondent's conduct violated one (1) count of Ind. Code § 25-1-9-4(a)(7).

ULTIMATE CONCLUSIONS OF LAW

Respondent's failure to comply with the above referenced standard is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1000.00 per violation, as detailed at Ind. Code § 25-1-9-9.

ORDER

Based on the foregoing Stipulated Findings of Fact, Stipulated Conclusions of Law, and Ultimate Conclusions of Law, the Board hereby issues its FINAL ORDER:

1. The Board has jurisdiction over Respondent and the subject matter in this disciplinary action.
2. The parties execute this Agreement voluntarily.
3. Respondent and Petitioner voluntarily waive their rights to a public hearing on the administrative complaint and all other proceedings in this action to which either party may be entitled by law, including judicial appeal or review.
4. Petitioner agrees the terms of this Agreement will resolve any and all outstanding claims or allegations or potential claims or allegations relating to disciplinary action against Respondent's nursing license.

5. 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 all matters and not subject to further review.

6. Respondent shall, within ninety (90) days of the Final Order, successfully complete and submit proof to the Board of **TWELVE (12) HOURS of CONTINUING EDUCATION** in the area of nursing professionalism and ethics.

7. Respondent shall, within ninety (90) days of the Final Order, pay a **FINE** in the amount of **FIVE HUNDRED DOLLARS (\$500.00)** payable to the Indiana Professional Licensing Agency.

8. Respondent shall, within ninety (90) days of the Final Order, pursuant to Ind. Code § 4-6-14-10(b), pay a **FEE of FIVE DOLLARS (\$5.00)** to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund. This fee shall be paid by check or money order payable to the State of Indiana, and submitted to the following address:

Office of the Indiana Attorney General
Attn: Katie Thorpe
302 West Washington Street, 5th Floor
Indianapolis, IN 46204

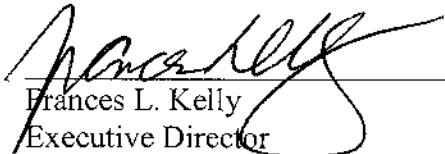
9. Respondent further understands that a violation of the Final Order, and non-compliance with the statutes or regulations regarding the practice of nursing, or any violation of the Settlement Agreement may result in Petitioner requesting an summary suspension of Respondent's license, an Order to Show Cause as may be issued by the Board, or a new cause of action being filed pursuant to Ind. Code § 25-1-9-4(a)(10), any or all of which could lead to additional sanctions, up to and including a revocation of Respondent's license.

10. The parties agree to the continuing jurisdiction of the Board and that the discipline agreed to, terms of discipline, and licensure status will apply even if the Board renews Respondent's license at a later date.

So ORDERED, this 07 day of June, 2011.

INDIANA STATE BOARD OF NURSING

By:



Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies to:

Kelley Alysnn Nickel, R.N.
64264 Cassopolis Road
Cassopolis, MI 49031

CERTIFIED MAIL NO: 91 7190 0005 2720 0008 7376
RETURN RECEIPT REQUESTED

David A. Fleischhacker
Deputy Attorney General
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Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, Indiana 46204