

**BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NUMBER: 2021 NB 0143**

**IN THE MATTER OF THE LICENSE OF)
)
MATTHEW PIANOWSKI, R.N.)
)
LICENSE NUMBER: 28199334A (ACTIVE))**



FINAL ORDER ACCEPTING PROPOSED SETTLEMENT AGREEMENT

The State of Indiana (“Petitioner”), by Hilary L. Brown, Deputy Attorney General, and Matthew Pianowski, R.N. (“Respondent”), by Counsel, Michael Pianowski (collectively “the Parties”), executed a Proposed Settlement Agreement (“Agreement”) in disposition of all issues raised in the Administrative Complaint filed with the Indiana State Board of Nursing (“Board”) in this Cause on August 12, 2021. This Agreement was submitted to the Board for its consideration on August 15, 2022.


The Board, after reviewing the Agreement at its August 18, 2022, meeting held in Conference Room B of 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 a final resolution of this matter. The Board approved this Agreement by a vote of 5-0-0.

WHEREFORE, the Board hereby accepts and approves the Agreement, settling all matters in this case consistent with the terms of the Agreement between the Parties incorporated herein, and Respondent is hereby **ORDERED** to abide by all the terms of the Agreement.

WHEREFORE, by the Board's acceptance of the Agreement, and upon the issuance of this Order, Respondent's license will be immediately subject to Indefinite Probation and its terms and conditions as set forth in the Agreement.

ALL OF WHICH IS SO ORDERED, this 1st day of September 2022.

INDIANA STATE BOARD OF NURSING

By:  for
Kim Cooper, R.N.,
President
Indiana State Board of Nursing

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

CERTIFICATE OF SERVICE

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

Matthew Pianowski, RN
By Counsel, Michael Pianowski
Sanders Pianowski LLP
300 Riverwalk Drive
Elkhart, IN 46516
mpianowski@riverwalklaw.com
Service by Email/U.S. Mail

Hilary L. Brown
Deputy Attorney General
8720 Castle Creek Parkway East Drive
Suite 250
Indianapolis, IN 46250
Hilary.Brown@atg.in.gov
Service by Email

9/1/2022

Date



Catherine Briney, Litigation Coordinator

Indiana State Board of Nursing
Indiana Government Center South
402 West Washington St., Room W072
Indianapolis, IN 46204
Phone: 317-234-2043
Email: pla2@pla.in.gov

Explanation of Service Methods

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

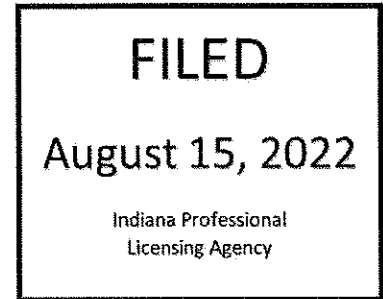
Service by U.S. Mail: by serving a true copy of the aforesaid document(s) by First Class U.S. Mail, postage prepaid.

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: 2021 NB 0143**

**IN THE MATTER OF THE LICENSE OF)
)
MATTHEW PIANOWSKI, R.N.)
)
LICENSE NO: 28199334A (Active))**



PROPOSED SETTLEMENT AGREEMENT

The State of Indiana (“Petitioner”), by counsel, Deputy Attorney General Hilary L. Brown, and Matthew Pianowski, R.N. (“Respondent”), by Counsel, Michael Pianowski (collectively “the Parties”), hereby execute this Proposed Settlement Agreement (“Agreement”) in disposition of the Administrative Complaint filed in this Cause on August 12, 2021. On March 17, 2022, the parties attended a Prehearing Settlement Conference with Indiana State Board of Nursing President, Kim Cooper, M.S.N., R.N., acting as Administrative Law Judge. The terms of this agreement reflect the recommendations made by Ms. Cooper at the aforementioned conference. This Agreement is subject to review and approval of the Indiana State Board of Nursing (“Board”) pursuant to Ind. Code § 25-1-9 and the Administrative Orders and Procedures Act, Ind. Code § 4-21.5-3.

STIPULATED FACTS

1. Respondent is a Registered Nurse (“RN”) in the State of Indiana, having been issued RN License Number 28199334A, by examination, on or about September 27, 2011.
2. Respondent’s address on file with the Board is 9194 Cinnebar Drive, Indianapolis, Indiana, 46268.
3. On August 13, 2007, Respondent began working as a Mental Health Clinician at Community Hospital North (“CHN”) in Indianapolis, Indiana.

4. On September 29, 2011, Respondent became licensed as an RN, and was transferred to an RN position at CHN.

5. On or about September 2019, CHN conducted a routine pharmacy audit. The audit found several irregularities in Respondent's nursing practices.

6. The audit revealed that Respondent had an unusually high number of medications that were not scanned, as well as an unusually high number of patients that were not scanned, and an unusually high number of instances of back charting. The audit found the following to be notable:

- a. Respondent failed to scan both medication and patient one hundred fifty-two (152) times in 2019;
- b. Of those 152 failures, Respondent failed to scan Oxycodone eighty-one (81) times and Hydrocodone thirty-one (31) times;
- c. Respondent scanned non-controlled medications, but then failed to scan controlled medications for the same patient a few minutes later; and
- d. Respondent was the number one (1) nurse for non-compliance in the ninety (90) days prior to the audit, having failed to scan Oxycodone and Hydrocodone thirty-five (35) times. The next highest nurse failed to scan five (5) times in that same ninety (90) days.

7. On October 11, 2019, two (2) CHN investigators met with Respondent to discuss the audit findings.

8. The investigators asked Respondent to explain what "back charting" means, as well as why he was missing pain scores and non-scan compliance. Respondent's answers were

“evasive” according to investigators, with Respondent usually blaming laziness, forgetfulness, or short-cuts due to the number of patients needing care.

9. The investigators then moved on to questioning Respondent about specific instances of back charting. The investigators asked Respondent about seven (7) patients that Respondent back charted Hydrocodone or Oxycodone for during the months of July and August of 2019.

10. Respondent could not explain why all of his instances of failing to scan the medication AND the patient involved Oxycodone or Hydrocodone.

11. At the end of the meeting, Respondent agreed to take a for-cause drug test; the results came back negative.

12. Respondent was placed on administrative leave, and later resigned from CHN.

13. In his response to Petitioner, Respondent stated that “back charting” is a new term to him, however he admitted to doing it, although not for the reasons alleged.

14. Respondent stated that it was not out of laziness, but because of his large patient caseload and a busy, post-surgical unit.

15. Respondent explained that his patients would often need medication every other hour, and sometimes he would forget to bring their medication with him, so he administered what he had with him. Respondent would then go back and pull the medication from the Pyxis but would not scan the patient again.

16. Respondent also indicated that he had never been coached or disciplined regarding his medication practices prior to speaking with investigators, and would have corrected his charting if he had been aware of the issue.

17. Respondent provided Petitioner with another negative drug test and has had no issue continuing to do so if asked.

18. Respondent contacted the Indiana State Nurses Assistance Program (“ISNAP”), as administered by the Indiana Professionals Recovery Program (“IPRP”) but has not yet had an initial assessment.

STIPULATED CONCLUSIONS OF LAW

19. Respondent’s conduct serves as a basis for finding violations that are cause for disciplinary sanctions which may be imposed singularly or in combination, such as censure, letter of reprimand, probation, suspension, and permanent revocation, and the imposition of a fine in any amount up to \$1,000.00 per violation, as detailed in Indiana Code § 25-1-9-9.

20. Respondent’s conduct serves as a basis for finding a violation of Ind. Code § 25-1-9-4(a)(3), which addresses a knowing violation of a state statute or rule, or federal statute or regulation, regulating the profession in question, specifically 848 IAC 2-2-3(1), which addresses use of unsafe judgment, technical skills, or inappropriate interpersonal behaviors in providing nursing care, and authorizing the imposition of the terms and conditions set forth below.

21. Respondent’s conduct serves as a basis for finding a violation of Ind. Code § 25-1-9-4(a)(3), which addresses a knowing violation of a state statute or rule, or federal statute or regulation, regulating the profession in question, specifically 848 IAC 2-2-3(6), which addresses falsifying, omitting, or destroying documentation of nursing actions on the official patient record and authorizing the imposition of the terms and conditions set forth below.

ADDITIONAL RELEVANT FACTORS

22. Respondent has been conscientious in working with Petitioner, both during the investigative process and in reaching an agreed disposition in this matter.

23. Respondent has been employed at St. Vincent Hospital as a floor nurse on the trauma/ortho floor for more than one year and has had no issues.

24. There is no record of patient harm occurring due to Respondent's actions.

25. Respondent has had twenty-three (23) years of experience in the medical field with no disciplinary issues.

26. Respondent is a winner of the DAISY Award for Extraordinary Nurses. The DAISY Award is a national program that recognizes nurses and nursing students who provide "extraordinary compassionate care."

AGREED DISPOSITION

The agreement of the Parties as stated above establishes a sufficient factual and legal basis for the imposition of discipline upon Respondent's nursing license.

WHEREAS, this matter is pending before the Board; and

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

The Parties hereby agree as follows:

1. The Board has jurisdiction over the Respondent and the subject matter in this disciplinary action.
2. The Parties execute this Agreement voluntarily.
3. The Parties 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 review.
4. Petitioner agrees the terms of this Agreement will resolve any and all pending claims or allegations relating to disciplinary action against Respondent's Indiana nursing license.

5. Respondent's license shall be placed on **INDEFINITE PROBATION, and Respondent shall be required to be evaluated by ISNAP within NINETY (90) days** from the date of the Board's Final Order Accepting this Agreement.

6. If Respondent is given a Recovery Monitoring Agreement ("RMA"), Respondent **shall successfully complete his RMA with ISNAP**, prior to being eligible to petition for the withdrawal of the indefinite probation on his license. Additionally, Respondent shall comply with the below set forth TERMS and CONDITIONS.

7. If it is determined that Respondent is **not a candidate for monitoring through ISNAP**, Respondent will not be eligible to petition for the withdrawal of the indefinite probation on his license until **ONE (1) year** from the date of the Board's Final Order Accepting this Agreement, and Respondent **shall provide documentation from ISNAP that he was not a candidate for monitoring** and comply with below set forth TERMS and CONDITIONS.

8. While on probation, Respondent's license shall be governed by the following **TERMS AND CONDITIONS:**

- a. Respondent must maintain **full, continuous compliance with ISNAP** throughout the duration of his RMA, if one is recommended. Full compliance shall mean Respondent has **no missed urine drug screens, no positive urine drug screens, and complies with the policies of ISNAP** regarding dilute urine drugs screens and screen excusal;
- b. Respondent shall keep the Board informed of his residential address, email address, and telephone number at all times;
- c. Respondent shall keep the Board informed of his nursing employer(s) name, address, and telephone number at all times;

- d. Respondent shall not violate any statutes or rules regulating the practice of nursing;
- e. Respondent shall have any nursing employer sign and return a copy of the Final Order within **ten (10) days** after receiving the Board's Order accepting the Parties' Agreement. Should his employment change, Respondent shall submit a new, signed copy of the Order from each new employer within ten (10) days of beginning employment;
- f. Respondent shall cause his nursing employer to submit **quarterly reports** to the Board addressing Respondent's duties, responsibilities, character, and performance in his professional capacity;
- g. If not employed in a nursing capacity, Respondent shall submit quarterly **self-reports** to the Board addressing his employment activities, any attempts to return to the nursing profession, and any activities to further or maintain his nursing skills;
- h. Respondent **may not work in an unsupervised setting for six (6) months**. This includes but is not limited to working in **home healthcare**, working as a **charge nurse**, or working as a **school nurse**;
- i. Respondent shall obtain **nine (9) full months of active nursing practice** immediately preceding his request for the withdrawal of the indefinite probation on his license;
- j. Respondent **shall report any discipline** imposed upon him by his nursing employer(s) **within 48 hours** of such occurrence; and

- k. Respondent shall notify the Board of **any arrests or criminal charges within 72 hours** of such occurrence.

9. Prior to petitioning for withdrawal of the probation, Respondent shall submit proof to the Board of completion of **TWENTY (20) hours of Continuing Education**, within the following categories:

- a. Not less than **TEN (10) hours** in Medication Administration; and
- b. Not less than **TEN (10) hours** in Medication Documentation.

All continuing education courses must be approved by the Board prior to being accepted for credit.

10. Pursuant to Ind. Code § 4-6-14-10(b), Respondent shall 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 within ninety (90) days of the issuance of the Final Order in this matter, submitted to the following address:

Indiana Office of the Attorney General
Attn: Executive Assistant, Consumer Protection Division
302 West Washington Street, 5th Floor
Indianapolis, IN 46204

11. Any and all reports and documentation shall be sent to the following address or as otherwise directed by the Board:

Indiana Professional Licensing Agency
Attn: Nursing Group 2
402 West Washington Street, W072
Indianapolis, Indiana 46204

12. Respondent must maintain his license in an active status at all times while the Final Order is in effect; this means Respondent must not let his license expire. If Respondent fails to maintain this license in active status, Respondent agrees that any renewal application shall be

denied by the Board unless Respondent agrees to continue the terms of discipline ordered under this Cause number on the renewed license.

13. 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.

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

15. Respondent also understands that becoming eligible to petition for the withdrawal of probation from his license under the terms and conditions set forth in this agreement, **DOES NOT** guarantee that the Board will withdraw the probation following a hearing. Respondent further understands that the Board's standard for withdrawing or modifying a probation is found in Ind. Code § 25-1-9-9(b), *The board may withdraw or modify 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.*

16. Respondent acknowledges that probation the length of his RMA or one year, whichever is longer, is the **MINIMUM** amount of time he will be on probation, and that he must continue to be compliant with the terms of his probation unless or until a hearing is held by the Board giving him permission to have his probation withdrawn.

17. 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.

[Signatures on following page]

Brown, Hilary

From: Mike Pianowski <MPianowski@riverwalklaw.com>
Sent: Friday, August 12, 2022 3:17 PM
To: Brown, Hilary
Cc: Mathew J Pianowski (optimi75@yahoo.com)
Subject: Re: Proposed Settlement Agreement

Follow Up Flag: Follow up
Flag Status: Flagged

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Matt: Please resend. Hopefully you still have an unsigned copy or can reprint one.

Sent from my iPhone

On Aug 12, 2022, at 3:01 PM, Brown, Hilary <Hilary.Brown@atg.in.gov> wrote:

Hello Mike and Mathew,

I hope you are both doing well. The Board did not end up considering any Proposed Settlement Agreements at their July meeting, but they are planning on doing so at their meeting next Thursday, or [REDACTED] That being said, I never did get Mathew's signature page. I know you told me he sent it, so I am sorry it seems to have gotten lost again.

If Mathew is still interested in signing the agreement and would like it presented to the Board this Thursday, I would need a copy of his signature page by close of business Tuesday. You can fax or email me a copy of the signature page. I believe you indicated he took a picture of the signature page (although I could be confused there) which is fine. It is also fine if you would find it easier to forego the notary section if he needs to sign a new page.

I'll likely be signing off for the day soon, but I should have access to my email this weekend and I'll be around next week for any questions or concerns.

Have a good weekend!

Hilary Brown
Deputy Attorney General
Office of Attorney General Todd Rokita
8720 Castle Creek Parkway East Drive, Suite 250
Indianapolis, IN 46250
p: 317-915-5320 | f: 317-232-7979
Hilary.Brown@atg.in.gov

From: Mike Pianowski <MPianowski@riverwalklaw.com>
Sent: Wednesday, June 29, 2022 9:44 AM
To: Brown, Hilary <Hilary.Brown@atg.in.gov>
Cc: Mathew J Pianowski (optimi75@yahoo.com) <optimi75@yahoo.com>
Subject: RE: Proposed Settlement Agreement

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Hilary: Mat yesterday signed the PSA in the presence of a Notary; therefore, it should be to you soon. Thank you.

Michael A. Pianowski
Sanders • Pianowski, LLP
300 Riverwalk Drive | Elkhart, IN 46516
Tel (574) 294-1499 | Fax (574) 294-7277

✉ [E-mail](#) • [Website](#) • [vCard](#)

Confidentiality Notice: The material in this e-mail transmission (including all attachments) is private and confidential and is the property of the sender. The information contained in the material is privileged and is intended only for the use of the named addressee(s). If you are not the intended addressee, be advised that any unauthorized disclosure, copying, distribution or the taking of any action in reliance on the contents of this material is strictly prohibited. If you have received this e-mail in error, please immediately notify the sender by telephone or e-mail, and then delete

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

15:25



Matthew Pianowski
Matthew Pianowski, R.N.
Respondent

STATE OF Indiana)
COUNTY OF Hamilton) SS:
)

Before me a Notary Public for said County and State, personally
R.N., first duly sworn by me upon his oath, says that the facts all
are true.