

BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NUMBER: 2013 NB 150

IN THE MATTER OF THE LICENSE OF:)
)
BERNICE E. ROBERSON, L.P.N.,)
)
LICENSE NO: 27043020A. (Active))



COMPLAINT

The State of Indiana (Petitioner), by counsel, Deputy Attorney General David A. Fleischhacker, on behalf of the Office of the Attorney General, and pursuant to Ind. Code § 25-1-7-7, Ind. Code ch. 25-1-5, Ind. Code § 25-23-1-7, the Administrative Orders and Procedures Act, Ind. Code ch. 4-21.5-3, and Ind. Code ch. 25-1-9, files its Complaint against the Indiana nursing licenses of Bernice E. Roberson, L.P.N. (Respondent), and in support alleges and states the following:

FACTS

1. Respondent's address on file with the Indiana Professional Licensing Agency is 227 South Howard Street, Union City, Indiana 47390. Respondent is a Licensed Practical Nurse in the State of Indiana having been issued license number 27043020A in October 1996.
2. On or about March 22, 2004, Respondent began employment with Visionary Enterprises, Inc. (VEI) located in Indianapolis, Indiana.
3. On or about January 14, 2008, VEI counseled Respondent regarding attendance/tardiness issues during her annual performance evaluation.
4. On or about May 1, 2008, VEI counseled Respondent for excessive absences, tardiness, and failure to clock in.
5. On or about July 11, 2008, VEI counseled Respondent for excessive absence/tardiness; Respondent had seven (7) absences and twenty (20) tardies during the

previous year. Respondent was encouraged to make an appointment with the Employee Assistance Program.

6. On or about August 8, 2008, VEI gave Respondent a Written Warning for displaying inappropriate behavior toward a co-worker within earshot of patients.

7. On or about January 19, 2009, VEI counseled Respondent on excessive absences/tardiness.

8. On or about March 6, 2009, VEI gave Respondent a Final Written Warning for administering incorrect medication to VEI staff. Respondent administered a flu vaccine instead of a Tuberculosis test to five (5) different VEI staff for a total of six (6) different occasions. Respondent was informed that any future policy or procedure infractions would result in termination.

9. On or about April 7, 2009, VEI placed Respondent on administrative leave pending the outcome of an investigation into allegations of inappropriate behavior by Respondent toward other VEI staff, including bullying, threatening, and disrespectful behavior resulting in a hostile work environment.

10. On or about April 13, 2009, Respondent's employment at VEI was terminated for failing to meet VEI code of conduct.

11. On or about February 2, 2010, Respondent began employment with Meadowbrooke Rehabilitation Center and Suites (Meadowbrooke) located in Anderson, Indiana.

12. On or about February 25, 2010, Meadowbrooke gave Respondent a Written Warning for pre-setting medications three (3) hours prior to when they were to be administered.

13. On or about March 5, 2010, Meadowbrooke gave Respondent a Written Warning for giving insulin without an order to a non-diabetic resident.

14. On or about March 11, 2010, Meadowbrooke suspended Respondent for one (1) day for inattention to duty. Respondent pre-set medications, failed to administer Ceflin to a resident and Oxybutynin to another resident, and failed to document they were not administered.

15. On or about March 22, 2010, Respondent resigned her employment at Meadowbrooke.

16. On or about May 16, 2010, Respondent began employment at Miller's Merry Manor (Miller's) located in Middletown, Indiana.

17. On or about October 31, 2010, Respondent's Indiana nursing license expired.

18. On or about November 8, 2010, Respondent submitted her Indiana nursing license renewal application. Respondent answered "No" to the question which asks, "Since you last renewed, have you ever been terminated, reprimanded, disciplined, or demoted in the scope of your practice as a Nurse or as another health care professional?"

19. On or about December 30, 2010, Miller's counseled Respondent due to documentation issues.

20. On or about February 17, 2011, Miller's verbally counseled Respondent due to inappropriate behavior with residents and family members.

21. On or about March 10, 2011, Miller's gave Respondent a Written Warning for failing to follow Miller's policies and procedures. Respondent was uncooperative during multiple meal services and loudly voiced opposition to Miller's management.

22. On or about May 7, 2011, Respondent's employment with Miller's was terminated for failing to follow Miller's policies regarding administering medications to residents who refuse the medication. Miller's determined Respondent forced medication on two (2) residents who had refused their medications.

23. On or about May 13, 2011, Respondent began employment with Individual Support Home Health Agency (ISHHA) located in Middletown, Indiana.

24. On or about December 27, 2011, ISHHA verbally counseled Respondent for insubordination based on Respondent being loud and disrespectful toward staff in front of other staff and case workers.

25. On or about March 19, 2012, ISHHA gave Respondent a written counseling for insubordination based on Respondent using profanity with another staff member.

26. On or about May 15, 2012, ISHHA gave Respondent a corrective action for lack of professionalism and insubordination.

27. On or about June 20, 2012, Respondent began employment with The Waters of New Castle (The Waters) located in New Castle, Indiana.

28. On or about June 29, 2012, Respondent resigned her employment at ISHHA.

29. On or about October 11, 2012, Respondent submitted her Indiana nursing license renewal. Respondent disclosed her employment terminations.

30. On or about November 7, 2012, The Waters gave Respondent a written warning for failing to complete daily flucometer checks per facility policy.

31. On or about December 4, 2012, The Waters gave Respondent a written warning for failing to complete a weekly skin assessment on a resident. The Waters also gave Respondent a verbal warning for failing to answer a call light in a timely manner.

32. On or about December 6, 2012, Respondent submitted additional information regarding the positive response on her October 2012 renewal application. Respondent disclosed her employment terminations from VEI in 2009 and Miller's in 2011. Respondent's license was renewed without a personal appearance.

33. On or about January 27, 2013, Respondent resigned her employment at The Waters.

COUNT I

34. Paragraphs 1 through 33 are hereby incorporated by reference herein.

35. Respondent's conduct violated Ind. Code § 25-1-9-4(a)(1)(A) in that Respondent has engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice as evidenced by Respondent answering "No" on her November 2010 Indiana nursing license renewal to the question which asks, "Since you last renewed, have you ever been terminated, reprimanded, disciplined, or demoted in the scope of your practice as a Nurse or as another health care professional?" Respondent failed to disclose her April 2009 termination from VEI and March 2010 suspension at Meadowbrooke.

COUNT II

36. Paragraphs 1 through 33 are hereby incorporated by reference herein.

37. Respondent's conduct violated Ind. Code § 25-1-9-4(a)(4)(A) in that Respondent has continued to practice although she has become unfit to practice due to professional incompetence as evidenced by Respondent displaying inappropriate behavior toward co-workers while employed at VEI, displaying inappropriate behavior toward residents and staff while employed at Miller's, and engaging in insubordinate behavior while employed at ISHHA; using unsafe judgment, technical skills, or inappropriate interpersonal behaviors in providing nursing care is considered unprofessional conduct pursuant to 848 IAC 2-3-3(1).

COUNT III

38. Paragraphs 1 through 33 are hereby incorporated by reference herein.

39. Respondent's conduct violated Ind. Code § 25-1-9-4(a)(4)(A) in that Respondent has continued to practice although she has become unfit to practice due to professional

incompetence as evidenced by Respondent failing to administer Ceflin and Oxybutynin to residents and failing to document they were not administered while employed at Meadowbrooke and being counseled due to documentation issues while employed at Miller's; falsifying, omitting, or destroying documentation of nursing actions on the official patient/client record is considered unprofessional conduct pursuant to 848 IAC 2-3-3(6).

COUNT IV

40. Paragraphs 1 through 33 are hereby incorporated by reference herein.

41. Respondent's conduct violated Ind. Code § 25-1-9-4(a)(4)(B) in that Respondent has continued to practice although she has become unfit to practice due to failure to keep abreast of current professional theory or practice as evidenced by Respondent administering a flu vaccine instead of a Tuberculosis test to five (5) different staff for a total of six (6) different occasions while employed at VEI; administering insulin without an order to a non-diabetic resident while employed and pre-setting medications three (3) hours prior to when they were to be administered at Meadowbrooke; failing to follow facility policies regarding administering medications to residents who refuse the medication while employed at Miller's; and failing to complete daily flucometer checks per facility policy, failing to complete a weekly skin assessment on a resident, and failing to answer a call light in a timely manner all while employed at The Waters.

WHEREFORE, Petitioner demands an order against Respondent that:

1. Imposes the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all costs incurred in the prosecution of this case; and,
3. Provides any further relief as the Board deems just and proper.

Respectfully submitted,

Gregory F. Zoeller
Attorney General of Indiana
Attorney No. 1958-98

By:



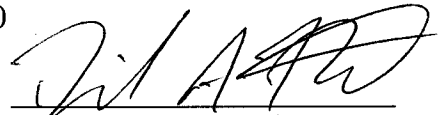
David A. Fleischhacker
Deputy Attorney General
Attorney No. 28563-49

CERTIFICATE OF SERVICE

I certify that a copy of the "Complaint" has been duly served upon Respondent by United States mail, first-class, postage prepaid, on this 5th day of APRIL, 2013.

Bernice E. Roberson
227 South Howard Street
Union City, IN 47390

By:



David A. Fleischhacker
Deputy Attorney General
Attorney No. 28563-49

Indiana Government Center South
302 West Washington St., Fifth Floor
Indianapolis, IN 46204-2770
Phone: 317-232-4774
Fax: 317-233-4393
Email: David.Fleischhacker@atg.in.gov