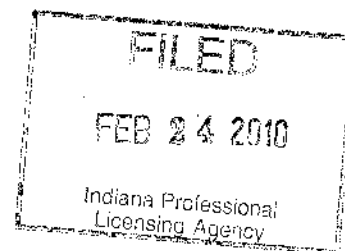


BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NUMBER: 2009 NB 159

IN THE MATTER OF THE LICENSE OF)
JUDITH KAY DAUM, L.P.N.)
LICENSE NO: 27038659A)



FINDINGS OF FACT AND ORDER

The Indiana State Board of Nursing ("Board") held an administrative hearing on October 15, 2009 in the Auditorium of the Conference Center, Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana, concerning a disciplinary complaint filed by the State of Indiana against the Indiana nursing license of Judith Kay Daum, L.P.N. ("Respondent") on September 1, 2009.

The State of Indiana was represented by Deputy Attorney General Laura E. Wilford. 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 5-0-0, found Respondent to be in default. The Board then held further proceedings in Respondent's absence, and, by a vote of 4-0-1, issues the following Findings of Fact and Order:

FINDINGS OF FACT

1. The Respondent's address on file with the Indiana Professional Licensing Agency ("IPLA") is 2206 20th Street, Columbus, IN 47201. Respondent is a Licensed Practical Nurse in the State of Indiana having been issued license number 27038659A in 1994.

2. On February 10, 1984, Respondent was charged with Operating a Motor Vehicle While Intoxicated, a Class A Misdemeanor, in Bartholomew County, Indiana, in Cause Number CR84-301.

3. On March 16, 1984, Respondent pled guilty to Operating a Motor Vehicle While Intoxicated, a Class C Misdemeanor, in Bartholomew County Court, Indiana, in Cause Number CR84-301.

4. On August 9, 1990, Respondent was charged with Operating a Vehicle While Intoxicated, a Class A Misdemeanor, in Bartholomew County Superior Court Two, Bartholomew County, Indiana, in Cause Number 03D02-9008-CM-01872.

5. On March 20, 1992, Respondent pled guilty to Operating a Vehicle While Intoxicated, a Class A Misdemeanor, in Bartholomew County Superior Court Two, Cause Number 03D02-9008-CM-01872. Respondent was required to attend, cooperate and complete an intensive observation period with Quinco and Aftercare, which she completed in June 1991 (before her guilty plea was entered).

6. On September 20, 1993, Respondent completed an application for nursing licensure. She answered "yes" to the question, "Have you ever been convicted of, pled guilty or nolo contendere to . . . any offense, misdemeanor or felony in any state?" She disclosed that she was convicted in 1992 of Operating a Vehicle While Intoxicated, but failed to disclose that she was also convicted in 1984 of the same offense in Bartholomew County Court, Cause Number CR84-301.

7. On January 29, 2002, Respondent was charged with Operating a Vehicle With a BAC of .08 or More, a Class C Misdemeanor and Operating a Vehicle While Intoxicated

2. On February 10, 1984, Respondent was charged with Operating a Motor Vehicle While Intoxicated, a Class A Misdemeanor, in Bartholomew County, Indiana, in Cause Number CR84-301.

3. On March 16, 1984, Respondent pled guilty to Operating a Motor Vehicle While Intoxicated, a Class C Misdemeanor, in Bartholomew County Court, Indiana, in Cause Number CR84-301.

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7. On January 29, 2002, Respondent was charged with Operating a Vehicle With a BAC of .08 or More, a Class C Misdemeanor and Operating a Vehicle While Intoxicated

14. On June 6, 2006, Respondent signed a three-year Recovery Monitoring Agreement ("RMA").

15. On September 21, 2006, Respondent completed her Indiana nursing license renewal online and answered "no" to the question, "Since you last renewed, have you been convicted of or pled guilty to a violation of a federal or state law or are criminal charges pending?"

16. On November 13, 2006, ISNAP's quarterly compliance report indicated that Respondent was in significant non-compliance. Respondent did not submit any worksite monitor, sponsor or self-reports. Respondent also did not submit any urine drug screens.

17. On November 29, 2006, Respondent's RMA was extended seven months. Also, Witham Laboratories reported that Respondent had not been calling the urine drug screen line as required by her RMA.

18. On December 15, 2006, Bartholomew County Superior Court Two, in Cause Number 03D02-0511-FD-01534 entered an order withholding judgment on Respondent's charges of Operating a Vehicle While Intoxicated, a Class D Felony, for two years, pending Respondent's successful completion of probation and the Forensic Drug Diversion program. The Court further ordered that judgment of conviction would be entered as a Class A misdemeanor upon the successful completion of probation and the Forensic Drug Diversion program. Respondent's charge of Operating a Vehicle With a BAC of .08 or More, a Class D Felony, was dismissed.

19. On January 19, 2007, ISNAP's quarterly compliance report indicated that Respondent was in significant non-compliance. Respondent had missed five urine drug screens.

Endangering a Person, a Class A Misdemeanor in Bartholomew County Superior Court Two, Bartholomew County, Indiana, in Cause Number 03D02-0201-CM-0095.

8. On June 24, 2002, Respondent pled guilty to Operating a Vehicle With a BAC of .08 or More, a Class C Misdemeanor in Bartholomew County Superior Court Two, Cause Number 03D02-0201-CM-0095.

9. On April 11, 2005, Respondent completed an application for employment with Indiana Masonic Home in Franklin, Indiana. She answered "no" to the question, "Have you, since the age of 18, had any criminal convictions, other than minor traffic offenses?"

10. On April 14, 2005, Respondent began her employment with Indiana Masonic Home.

11. On November 8, 2005, Respondent was charged with Operating a Vehicle While Intoxicated, a Class D Felony and Operating a Vehicle With a BAC of .08 or More, a Class D Felony, in Bartholomew County Superior Court Two, Bartholomew County, Indiana, in Cause Number 03D02-0511-FD-01534.

12. On November 9, 2005, Respondent initiated contact with the Indiana State Nurses Assistance Program ("ISNAP").

13. On February 8, 2006, Joyce E. Brumbaugh, MSW, NCAC II, Brumbaugh and Associates, assessed Respondent. Respondent reported four DUIs in twenty years: 1986, 1991, 2001, and 2005. Respondent also reported that she went through intensive outpatient therapy with Quinco in 1991 and that she stayed sober for three years. Respondent reported that her most recent alcohol use was in November 2005 when she had three beers. She reported that she normally drank four to five beers every two to five months. Respondent also reported that she used marijuana in 2002. Brumbaugh diagnosed Respondent with Rule out Alcohol Dependence.

14. On June 6, 2006, Respondent signed a three-year Recovery Monitoring Agreement ("RMA").

15. On September 21, 2006, Respondent completed her Indiana nursing license renewal online and answered "no" to the question, "Since you last renewed, have you been convicted of or pled guilty to a violation of a federal or state law or are criminal charges pending?"

16. On November 13, 2006, ISNAP's quarterly compliance report indicated that Respondent was in significant non-compliance. Respondent did not submit any worksite monitor, sponsor or self-reports. Respondent also did not submit any urine drug screens.

17. On November 29, 2006, Respondent's RMA was extended seven months. Also, Witham Laboratories reported that Respondent had not been calling the urine drug screen line as required by her RMA.

18. On December 15, 2006, Bartholomew County Superior Court Two, in Cause Number 03D02-0511-FD-01534 entered an order withholding judgment on Respondent's charges of Operating a Vehicle While Intoxicated, a Class D Felony, for two years, pending Respondent's successful completion of probation and the Forensic Drug Diversion program. The Court further ordered that judgment of conviction would be entered as a Class A misdemeanor upon the successful completion of probation and the Forensic Drug Diversion program. Respondent's charge of Operating a Vehicle With a BAC of .08 or More, a Class D Felony, was dismissed.

19. On January 19, 2007, ISNAP's quarterly compliance report indicated that Respondent was in significant non-compliance. Respondent had missed five urine drug screens.

20. On April 25, 2007, ISNAP's quarterly compliance report indicated that Respondent was in partial compliance. Respondent had missed one urine drug screen.
21. On July 20, 2007, ISNAP's quarterly compliance report indicated that Respondent was in significant non-compliance. Respondent had missed three urine drug screens.
22. On August 31, 2007, Respondent's employment with Indiana Masonic Home was terminated for insubordination and an inability to work professionally with other staff and residents.
23. On October 19, 2007, ISNAP's quarterly compliance report indicated that Respondent was in full compliance.
24. On January 17, 2008, ISNAP's quarterly compliance report indicated that Respondent was in partial compliance. Respondent had missed one urine drug screen.
25. On April 21, 2008, ISNAP's quarterly compliance report indicated that Respondent was in partial compliance. Respondent had missed one urine drug screen.
26. On June 26, 2008, Respondent reported to ISNAP that she had to relocate since her home was flooded. Respondent stated that her drop site was closed because of flooding. Respondent stated that she was living in Nashville, Indiana with family and that her cell phone and her home phone were not working. Respondent was told that she still must call the urine drug screen line.
27. On July 18, 2008, ISNAP's quarterly compliance report indicated that Respondent was in significant non-compliance, due in part to being displaced from flooding. As a result of the flood, her paperwork was lost, but Respondent also missed three urine drug screens: April 24, May 16 and June 16.

28. On October 14, 2008, Respondent completed her Indiana nursing license renewal online and answered "no" to the question, "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?"

29. On October 21, 2008, ISNAP's quarterly compliance report indicated that Respondent was in significant non-compliance. ISNAP did not have Respondent's addictionist, worksite monitor, sponsor and August and September monthly reports and Respondent missed three urine drug screens.

30. On December 15, 2008, Bartholomew County Superior Court Two entered an Order finding that Respondent had successfully completed the Forensic Drug Diversion Program and entered a judgment of conviction on Respondent's charges of Operating a Vehicle While Intoxicated, a Class D Felony in Cause Number 03D02-0511-FD-01534, and reduced the charge to a Class A misdemeanor.

31. On December 16, 2008, ISNAP closed Respondent's file after Respondent had not been in contact with ISNAP since August 2008.

32. On September 1, 2009, an Administrative Complaint was file in this matter against Respondent's Indiana nursing license.

33. On or around September 2, 2009, IPLA sent notice to Respondent, by certified and regular mail to her and her counsel of record addresses on file with IPLA of the date and time of the Administrative hearing scheduled for September 17, 2009.

34. Pursuant to Ind. Code § 4-21.5-3-20, Respondent was provided adequate notice of the final hearing date and failed to appear for the scheduled hearing on September 17, 2009.

28. On October 14, 2008, Respondent completed her Indiana nursing license renewal online and answered "no" to the question, "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?"

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34. Pursuant to Ind. Code § 4-21.5-3-20, Respondent was provided adequate notice of the final hearing date and failed to appear for the scheduled hearing on September 17, 2009.

35. On September 17, 2009, the Board voted 6-0-0 to issue a Notice of Proposed Default Order. The Notice of Proposed Default Order was mailed by certified and regular mail to Respondent at her last known address.

36. Respondent failed to respond to the Notice of Proposed Default Order within seven (7) days as required by Ind. Code § 4-21.5-3-24.

37. On October 15, 2009, the Board voted to hold Respondent in default.

ULTIMATE FINDINGS OF FACT

1. Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(D).
2. Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(2)(A).
3. Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(2)(B).
4. Respondent's conduct constitutes three violations of Ind. Code § 25-1-9-4(a)(1)(A).
5. Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(1)(B).

ORDER

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

1. Respondent's Indiana nursing license is hereby placed on **INDEFINITE SUSPENSION**.
2. Prior to petitioning for reinstatement, Respondent shall have **one (1) year** of complete compliance with a Recovery Monitoring Agreement with ISNAP.
3. Prior to petitioning for reinstatement, Respondent shall pay a **FINE** in the amount of **ONE THOUSAND, SEVEN HUNDRED FIFTY DOLLARS (\$1750.00)**.

4. Prior to petitioning for reinstatement, Respondent shall submit proof to the Board that she has completed twenty-four (24) contact hours of continuing education for nurses in the area of documentation/ charting.

5. Prior to petitioning for reinstatement, Respondent shall pay to IPLA **COSTS** in the amount of **ONE HUNDRED EIGHTY-ONE DOLLARS AND TWENTY-FOUR CENTS (\$181.24)**.

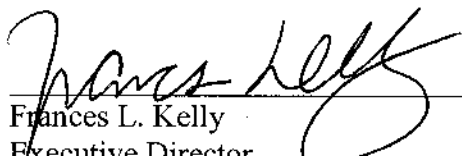
6. Prior to petitioning for reinstatement, Respondent shall pay to the Indiana Office of the Attorney General **COSTS** in the amount of **EIGHTY-SIX DOLLARS AND FORTY-SIX CENTS (\$86.46)**.

7. Respondent further understands that a violation of the Final Order or any non-compliance with the statutes or regulations regarding the practice of nursing may result in the State requesting an emergency 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.

SO ORDERED, this 24 day of February, 2010.

INDIANA STATE BOARD OF NURSING

By:



Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

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3. Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(2)(B).
4. Respondent's conduct constitutes three violations of Ind. Code § 25-1-9-4(a)(1)(A).
5. Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(1)(B).

ORDER

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

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