

BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NO: 2013 NB 452

IN THE MATTER OF THE LICENSE OF:)
BERAKI HAILE, R.N.)
LICENSE NO: 28081780A)



**FINAL ORDER ACCEPTING AMENDED PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER**

The State of Indiana ("Petitioner"), by Patricia Gibson Deputy Attorney General, and Beraki Haile, R.N., ("Respondent") signed an Amended Proposed Settlement Agreement ("Agreement") which purports to resolve all issues involved in the action by Petitioner and the Indiana State Board of Nursing ("Board") regarding the Respondent's license, and which Agreement has been submitted to the Board for approval.

The Board, after reviewing the Agreement at the March 20, 2014 meeting held in the Auditorium of the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana, 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 resolution of this matter. The Board approved this Agreement by a vote of 7-0-0. Incorporated into the Agreement was the consensus of both parties to Findings of Fact, Conclusions of Law, and Order.

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, and Respondent is hereby **ORDERED** to abide by all the terms of the Agreement.

SO ORDERED, this 4th day of April, 2014.

INDIANA STATE BOARD OF NURSING

By:

Nicholas W. Rhoad

Nicholas W. Rhoad

Executive Director

Indiana Professional Licensing Agency

for

CERTIFICATE OF SERVICE

I certify that a copy of the "Final Order Accepting Amended Proposed Findings of Fact, Conclusions of Law and Order" has been duly served upon:

Beraki Haile R.N.
2511 Vinewood Drive, Apt. 2026
Speedway, Indiana 46224
Service by U.S. Mail

Patricia Gibson, Deputy Attorney General
Indiana Government Center South, Fifth Floor
302 West Washington Street
Indianapolis, Indiana 46204-2770
Service by Email

4 April 14
Date


Lisa Chapman

Indiana State Board of Nursing
Indiana Government Center South
402 West Washington St., Room W072
Indianapolis, IN 46204
Phone: 317-234-2043
Fax: 317-233-4236
Email: pla2@pla.in.gov

Explanation of Service Methods

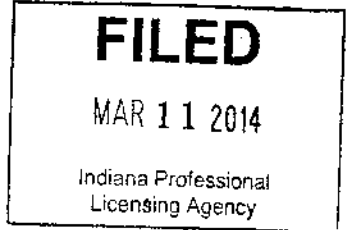
Personal Service: by delivering a true copy of the aforesaid document(s) personally.

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 NO. 2013 NB 452

IN THE MATTER OF THE LICENSE OF:)
BERAKI HAILE, R.N.)
LICENSE NO. 28081780A)



AMENDED PROPOSED SETTLEMENT AGREEMENT

The State of Indiana ("Petitioner"), by Patricia Gibson Deputy Attorney General, and Beraki Haile, R.N., ("Respondent"), hereby execute this Agreement to a disposition of the Complaint filed in this cause. This Agreement is subject to the review and approval of the Indiana State Board of Nursing ("Board") pursuant to Ind. Code § 25-1-9 et seq. and the Administrative Orders and Procedures Act, Ind. Code § 4-21.5-3 et seq.

STIPULATED FACTS

1. Respondent is a Registered Nurse ("RN") in the state of Indiana, having been issued license number 28081780A on September 18, 1981.
2. Respondent's address on file with the Indiana Professional Licensing Agency is 2511 Vinewood Drive, Apt. 2026, Speedway, Indiana 46224.
3. On or about May 24, 2010, Respondent was employed as a RN by Indiana University Health ("IU") at Indiana University Hospital West located in Avon, Indiana.
4. On or about January 1, 2011, a pharmacy technician passed Respondent in the hall and said "Hello" to him. The pharmacy technician entered the medication room and was logging into the Pyxis (an automated medication dispensing machine) when Respondent entered the room. The pharmacy technician asked Respondent if he needed the Pyxis. Respondent replied that he did not, but wanted to give the pharmacy technician a New Year's hug. The pharmacy technician turned to the side for a sideways hug. Respondent hugged her with both

arms, squeezing hard enough to hurt her right breast. Respondent then kissed the pharmacy technician's right cheek and left the medication room. The pharmacy technician did not know Respondent and felt Respondent's behavior was inappropriate.

5. On or about January 10, 2011, Respondent received documented counseling and a review of the IU sexual harassment policy from his supervisor.

6. On or about August 31, 2011, a triage nurse telephoned a patient after discharge to check on her condition. The patient reported Respondent had touched her shoulder and the inside and outside of her legs during her admission assessment. The patient's request that Respondent no longer be her nurse had been implemented by IU during her hospitalization.

7. On or about April 19, 2012, Nurse A informed her manager that Respondent was becoming increasingly "touchy feely" and his behavior was inappropriate. Nurse A stated Respondent came into the medication room while she was removing medications from the Pyxis. Respondent came up behind her, close to her back, and began rubbing her sides. Nurse A turned around and then Respondent moved towards her, hugged her very tightly and kissed her on both cheeks. Nurse A reported Respondent has hugged her more than once despite pushing him away.

8. On or about April 20, 2012, Respondent's manager had contacted the patient, and counseled Respondent about the potential discomfort of female patients when cared for by a male nurse.

9. On or about April 27, 2012, Respondent was placed on a four (4) day paid suspension pending investigation. Respondent was ordered to refrain from inappropriate touching, and to review the IU sexual harassment policy. Respondent informed his manager that he (Respondent) hugs everyone.

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10. On or about May 4, 2012, Respondent was placed on one (1) day unpaid suspension, and was required to have an assistance program evaluation.

11. On or about October 28, 2012, Nurse B reported that during her orientation period, Respondent had hugged her and kissed her on the cheek when they were in the medication room. Nurse B did not report the incident due to being a new employee.

12. On or about October 28, 2012, Nurse B reported since the completion of orientation period, Respondent had touched her on the side, was overly excited to see her, was "touchy/feely", and blew kisses. When Nurse B worked in Respondent's area, Respondent yelled her name down the hall in a "weird way," and when Nurse B turned around, Respondent smiled and giggled.

13. On or about November 1, 2012, Respondent resigned in lieu of termination for inappropriate behavior at IU.

14. On or about August 27, 2013, Respondent renewed his Indiana nursing license and answered "No" to all questions, including question number five (5) 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?" failing to disclose his two (2) suspensions at IU.

STIPULATED CONCLUSIONS OF LAW

The parties further stipulate:

1. Respondent's conduct violated Ind. Code § 25-1-9-4(a)(4)(B) in that Respondent has continued to practice although Respondent has become unfit to practice due to failure to keep abreast of current professional theory or practice as evidenced by report from fellow staff

members of inappropriate touching, and his resignation in lieu of termination for inappropriate behavior.

2. 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's failure to disclose his 2012 IU suspensions on his 2013 licensure renewal.

AGREED DISPOSITION

It is now therefore agreed by Respondent and Petitioner as follows:

1. The Board has jurisdiction over Respondent and the subject matter in this disciplinary action.

2. The parties execute this Agreement voluntarily.

3. Both parties voluntarily waive their rights to a public hearing on the Complaint.

4. Petitioner agrees that 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 Indiana nursing license shall be placed on **INDEFINITE PROBATION**. Prior to petitioning for the withdrawal of probation, Respondent shall complete **twelve (12) counseling sessions**. Respondent's counseling sessions shall be with a licensed mental health counselor, marriage and family therapist, social worker, clinical social worker, or psychologist. **While Respondent is in counseling, Respondent's counselor shall submit monthly reports to the Board** at the address below specifically addressing the issues contained in Respondent's 2014 Minnesota Multiphasic Personality Inventory and Axis 1-5 diagnosis ("MMPI-2"), Amended Proposed Settlement Agreement, and Respondent's ability to practice nursing safely with respect to patients and other staff members.

Indiana Professional Licensing Agency
Attn. Nursing Group 2
302 West Washington Street Room W072
Indianapolis, Indiana 46204

6. Within ten (10) days of his first counseling session, Respondent shall submit copies of the Administrative Complaint, the Amended Proposed Settlement Agreement, and Respondent's 2014 MMPI-2 signed by Respondent's counselor to:

Indiana Professional Licensing Agency
Attn. Nursing Group 2
302 West Washington Street Room W072
Indianapolis, Indiana 46204

7. Prior to petitioning for the withdrawal of probation, Respondent shall complete **thirty- six (36)** hours of continuing education in sexual harassment/boundaries. Certificates of completion shall be submitted to the following address:

Indiana Professional Licensing Agency
Attn. Nursing Group 2
302 West Washington Street Room W072
Indianapolis, Indiana 46204

8. Within three (3) months of the Final Order, Respondent shall pay a **FINE** in the amount of **TWO HUNDRED FIFTY DOLLARS (\$250.00)** payable to the Indiana Professional Licensing Agency. This fee shall be paid by check or money order and submitted to the following address:

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

9. 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 Lee
302 West Washington Street, 5th Floor
Indianapolis, IN 46204

10. 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.

11. 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 Settlement 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.

12. 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.

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