

BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NO: 2011 NB 252

IN THE MATTER OF THE LICENSE OF)
)
VICKIE HARVEY, L.P.N.)
)
LICENSE NO: 27048560A)



FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

A final hearing was scheduled to be held on September 15, 2011 before the Indiana State Board of Nursing ("Board") in the Auditorium of the Indiana State Government Building South, 302 West Washington Street, Indianapolis, Indiana 46204 to consider the Administrative Complaint filed against Vickie Harvey L.P.N. ("Respondent") by the State of Indiana ("Petitioner").

Patricia Gibson, Deputy Attorney General, appeared for Petitioner. Respondent appeared in person and waived her right to be represented by counsel.

The Board, after considering the evidence presented and taking official notice of the file in this matter, issues the following Findings of Fact, Conclusions of Law, and Order by a vote of 7-0-1:

FINDINGS OF FACT

1. Respondent is a Licensed Practical Nurse in the State of Indiana holding license number 27048560A issued on October 4, 2000. Respondent's address on file with the Indiana State Board of Nursing is 6294 South 450 West, Claypool, Indiana 46510.

2. On or about February 2, 2009, Respondent began employment at Grace Village Retirement Community ("Grace Village") in Winona Lake, Indiana.

3. On or about August 9, 2009, Respondent was arrested in Kosciusko County, Indiana for Operating While Intoxicated. Respondent had driven through a yard and left the scene, leading the property owner to call the Kosciusko County Sheriff. That evening, Grace Village also contacted the Kosciusko Sheriff about Respondent because Respondent had mentioned crashing her car on the way to Grace Village and smelled of alcohol. Deputy Travis Shively responded to Grace Village and interviewed Respondent. Respondent admitted to Shively that she had crashed, but denied drinking. Shively noted an odor of alcohol on Respondent and told Respondent that he could smell alcohol. After being questioned on the issue, Respondent admitted to drinking one (1) glass of wine. Shively then field tested Respondent and found her to be intoxicated with a blood alcohol level of .15%. Respondent was offered a certified chemical test of her blood alcohol level, which she submitted to. That test showed her blood alcohol content at .12%. Respondent was then jailed for Operating While Intoxicated.

4. On or about August 14, 2009, Respondent was charged with one (1) count of Operating a Vehicle While Per Se Intoxicated, a Class C Misdemeanor, in cause number 43D02-0908-CM-1211 in Kosciusko County, Indiana.

5. On or about August 18, 2009, Respondent's employment was terminated by Grace Village for reporting to work intoxicated.

6. On or about September 21, 2009, Respondent contacted the Indiana State Nurses Assistance Program ("ISNAP") to begin intake.

7. On or about October 13, 2009, Respondent was diagnosed by Dan Curtis, M.A. ("Curtis"), with alcohol abuse at the Bowen Center in Wabash, Indiana. He recommended that Respondent participate in group therapy for sixteen (16) weeks.

8. On or about October 14, 2009, ISNAP's clinical team reviewed the assessment from Curtis and recommended Respondent enter into a one (1) year recovery monitoring agreement ("RMA").

9. On or about November 2, 2009, Respondent informed ISNAP that she refused to submit to observed urine drug screens ("UDS") due to a severe vaginal, bladder, and rectal prolapse.

10. On or about November 13, 2009, Respondent informed ISNAP that she would not be entering into a RMA. Respondent cited financial concerns and reiterated her opposition to observed UDS's.

11. On or about November 16, 2009, ISNAP closed Respondent's file.

12. On or about October 5, 2010, Respondent renewed her Indiana nursing license online. Respondent answered "no" to question three (3), which asks, "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?"

13. On or about April 15, 2011, Respondent pled guilty to the offense of Operating With A Specified Amount of Alcohol in the Body, a Class C Misdemeanor, in Kosciusko County, Indiana in cause number 43D02-0908-CM-1211. Respondent's Indiana Operator's License and driving privileges were suspended for ninety (90) days and she was ordered to pay fines and costs in the amount of \$464.50. Further, Respondent was sentenced to fifty-four (54) days in jail, which was suspended on the condition that she attend one session of the Victim's Impact Panel, and she was to serve six (6) days in the Kosciusko County Jail.

14. At the disciplinary hearing on September 15, 2011, Respondent testified that her prolapse had been corrected through surgery and she would now consent to observed UDS's.

Respondent testified further that she had contacted ISNAP in September, 2011, prior to the disciplinary hearing, to initiate intake.

ULTIMATE FINDINGS OF FACT

1. Respondent's conduct violated one (1) count 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)(2).
3. Respondent's conduct violated one (1) count of Ind. Code § 25-1-9-4(a)(4)(D).

CONCLUSION OF LAW

Respondent's violation is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, letter of reprimand, probation, suspension, revocation, and a fine up to the amount of \$1,000 per violation as detailed in Ind. Code § 25-1-9-9.

ORDER

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

1. Respondent's Indiana nursing license shall be placed on **INDEFINITE PROBATION**.
2. Prior to petitioning for withdrawal of probation Respondent shall have one (1) year of full compliance with her ISNAP RMA.
3. Respondent shall, within six (6) months of the Final Order, pay a **FINE** in the amount of **FIVE HUNDRED DOLLARS (\$500.00)** payable to the Indiana Professional Licensing Agency.
4. Respondent shall, within six (6) months 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

5. Respondent shall, within six (6) months of the Final Order, pay **COSTS** in the amount of **TWENTY-THREE DOLLARS (\$23.00)** payable to the Office of the Indiana Attorney General, and submitted to the following address:

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

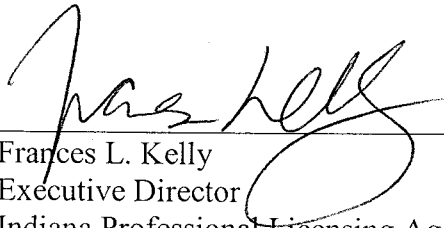
6. Respondent shall, within six (6) months of the Final Order, pay **COSTS** in the amount of **FIFTY DOLLARS AND EIGHTY-FOUR CENTS (\$50.84)** payable to the Indiana Professional Licensing Agency and submitted to the following address:

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

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 04 day of October 2011.

INDIANA STATE BOARD OF NURSING

By: 

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies to:

Vickie Harvey
6294 South 450 West
Claypool, IN 46510

CERTIFIED MAIL NUMBER: 91 7190 0005 2720 0011 8018
RETURN RECEIPT REQUESTED

Patricia Gibson
Deputy Attorney General
Office of the Indiana Attorney General
302 West Washington Street, Fifth Floor
Indianapolis, Indiana 46204