

BEFORE THE INDIANA STATE  
BOARD OF NURSING  
CAUSE NO.: 95 NB 054

STATE OF INDIANA, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 ANITA SHEPHERD, R.N., )  
 License number 28044286, )  
 )  
 Respondent. )

**FILED**  
**FEB 19 1996**  
**HEALTH PROFESSIONS**  
**BUREAU**

**FINDINGS OF FACT AND ORDER**

An administrative hearing was held before the Indiana State Board of Nursing ("Board") on February 15, 1996, in Room A of the Conference Center, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana 46204, to consider a proposed settlement agreement regarding disciplinary sanctions against the registered nursing license of Anita Shepherd ("Respondent") pursuant to the State's Complaint filed on January 12, 1996.

The State of Indiana was represented by Amy Huffman Oliver, Deputy Attorney General. The Respondent was present and represented by William Keown, attorney at law from Indianapolis, Indiana. The settlement conference was presided over by board member Kay Englebrecht, R.N.

Ms. Englebrecht recommended adoption of the settlement proposal as the final order of the Board. Ms. Englebrecht abstained from voting on the matter due to her participation in the settlement conference.

The Board, after taking official notice of its file and considering the settlement proposal presented, by a vote of 6 to 0, issues the following Findings of Fact:

### FINDINGS OF FACT

1. The Attorney General of Indiana is empowered to bring disciplinary complaints in the name of the State of Indiana before the Indiana State Board of Nursing ("Board") pursuant to IC 25-1-7-1 *et seq.*
2. The Board is charged with the duty and responsibility of regulating the practice of nursing in the State of Indiana pursuant to IC 25-23-1-7.
3. The Board is empowered to hold this disciplinary hearing pursuant to the authority of IC 25-1-9-4 and IC 4-21.5-3 *et seq.*
4. The Respondent's address is 3346 East, 200 North, Marion, Indiana 46953.
5. The Respondent is a duly licensed registered nurse in the State of Indiana holding license number 28044286.
6. The Respondent received timely and proper notice of the hearing date in this matter.

### COUNT I

1. On August 30, 1995, the Board placed the Respondent's nursing license on emergency suspension based upon information that she appeared for work at Marion General Hospital in Marion, Indiana, in an impaired state after using alcohol.

The Respondent voluntarily continued the emergency suspension on November 16, 1995.

2. The Respondent was employed as a registered nurse in the operating room at Marion General from January 8, 1990, until June 26, 1995.

3. On the morning of June 25, 1995, the Respondent was on 24 hour call and was called in for a case.

4. At approximately 3:25 a.m., on June 25, 1995, Kathleen Reno, R.N., the house supervisor for the night shift, received a call from Dr. W. David Moore stating that the Respondent appeared to be impaired.

5. Dr. Moore told Ms. Reno that he had been in a small room with the Respondent looking for instruments and the smell of alcohol was significant.

6. At approximately 3:28 a.m., after the staff had finished the case, Ms. Reno received a page from Dwight Working, an operating room technician stating that the staff completed the procedure and was going home.

7. Ms. Reno talked to the Respondent on the telephone and asked her to come to the nursing office on her way out.

8. The Respondent stated that she would stop by, but that she needed to clean up some things first.

9. At approximately 3:56 a.m., the Respondent called Ms. Reno stating that she was at home and that she had forgotten to come to the nursing office.

10. Ms. Reno told the Respondent that she needed to return to the hospital right away.

11. The Respondent arrived at Marion General at approximately 4:15 a.m.

12. Ms. Reno told the Respondent of Dr. Moore's report that she smelled of alcohol and informed her that she would need to take a blood alcohol test and urine drug screen.

13. The Respondent agreed to this and stated that it would be no problem because "it would not turn up anything".

14. On the way to the laboratory, the Respondent commented to Ms. Reno that she drank a glass of wine earlier that evening.

15. The result of the Respondent's blood alcohol test on June 25, 1995, at 4:24 a.m., was reported as 0.145.

16. A urine sample was taken at that time from the Respondent for a drug screen, however, Roche Lab lost the sample and no analysis was performed or reported.

17. The hospital administration terminated the Respondent's employment with Marion General on June 26, 1995, for reporting to work under the influence of alcohol in violation of hospital policy.

18. Previous incidents of the Respondent reporting for work while impaired were reported to the hospital in February of 1994, and February of 1995.

19. On October 19, 1995, the Respondent submitted to an addictionology examination by Rebecca Kelly, M.D., and a report of that examination was sent to the Board.

20. Dr. Kelly stated that the Respondent had been alcohol-free since her termination from Marion General and that she completed an intensive outpatient treatment program at Trinity House in Marion, Indiana.

21. Dr. Kelly further stated that, in October of 1995, the Respondent is still in the early stages of her recovery program and that she should not return to the practice of nursing until she has remained alcohol-free for six (6) months from the date of the suspension of her license. The Respondent has been alcohol-free since June of 1995.

22. The Board finds the conduct described above constitutes a violation of the following state statutes and regulations: IC 25-1-9-4(a)(4)(D), to-wit: a practitioner has continued to practice although the practitioner has become unfit to practice due to addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing the practitioner's ability to practice safely.

23. The Board finds the imposition of disciplinary sanctions to appropriate in this matter.

### ORDER

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

1. The emergency suspension of the Respondent's nursing license, imposed by the Board on August 30, 1995, is **TERMINATED**.

2. The Respondent's nursing license is placed on **INDEFINITE PROBATION**. The Respondent may petition to have the probationary order withdrawn after a period of three (3) years from the date of this Order.

3. The Respondent's practice of nursing shall be governed by the following **TERMS AND CONDITIONS**:

a.) The Respondent shall keep the Board informed of her residential address and telephone number at all times.

b.) The Respondent shall keep the Board informed of her employer's address and phone number at all times.

c.) The Respondent shall give any potential and current nursing employers a copy of this order. The Respondent shall cause her employer to verify in writing to the Board that it has received a copy of the order.

d.) The Respondent shall submit to random, urine, drug and alcohol screens, at her own expense, within eight (8) hours of notification of a request for such a screen by the Board, the Indiana State Nurses Association Peer Review and Assistance Program, her treatment counselor or therapist, or her current primary care physician. She shall have the written results of any and all screens sent directly to the Board. Said screens shall be performed on a **monthly** basis for the first year and on a **quarterly** basis thereafter.

e.) The Respondent shall provide a standing physician's order to the Board within seventy (72) hours of receipt of this order authorizing the urine screens referred to in paragraph (d).

f.) The Respondent shall cause her employer to submit quarterly written supervisor reports to the Board describing the Respondent's work performance.

g.) The Respondent shall attend at least three (3) AA/NA and/or nurse support meetings per week.

h.) The Respondent shall submit quarterly written reports to the Board verifying her attendance as AA/NA and nurse support meetings.

i.) The Respondent shall continue any counseling sessions that she currently attends. If her counselor believes that counseling is no longer therapeutically necessary, the counselor shall submit a letter stating such to the Board.

j.) The Respondent shall abstain from using any mood altering substances unless prescribed by a physician for a legitimate therapeutic purpose and shall use those medications only as prescribed.

k.) The Respondent shall submit to the Board copies of all prescriptions written for her by any physician along with the reason for the prescription.

l.) The Respondent shall report any relapse into the unauthorized use of alcohol or controlled substances to the Board within seventy-two (72) hours of its occurrence.

SO ORDERED, this <sup>th</sup> 19 day of February, 1996. This order is effective as  
of February 15, 1996.

INDIANA STATE BOARD OF NURSING

By:

  
Laura B. Langford  
Executive Director  
Health Professions Bureau

cc:

Anita Shepherd, R.N.  
3346 E. 200 N.

Marion, Indiana 46953

**SENT CERTIFIED MAIL NO. P 262 721 685**  
**RETURN RECEIPT REQUESTED**

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