

**BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NUMBER: 2019NB0346**

**IN THE MATTER OF THE LICENSE OF:)
ANN M. TERRY)
LICENSE NO.: 28212520A)**



HEARING NOTICE AND CASE MANAGEMENT ORDER

Pursuant to Ind. Code § 4-21.5-3-20, the Indiana State Board of Nursing (“Board”) issues the following Hearing Notice:


- 1) On February 21, 2025, a petition for probation withdrawal was filed before the Board by the above-captioned practitioner (“Petitioner”).
- 2) A hearing on this petition is scheduled on May 15, 2025 at 1:30 pm EST in Conference Center Room B, 302 W. Washington Street, Indianapolis, IN 46204. This hearing is to determine whether the terms of probation on the Respondent’s license should be withdrawn.
- 3) The Board will be presiding as administrative law judge in this matter. The Board is empowered to hold this administrative hearing pursuant to the authority of Ind. Code ch. 25-1-9 and Ind. Code art. 4-21.5. et seq.
- 4) In preparation for the hearing, the parties shall adhere to the following dates:

5/8/2025	On or before this date, each party shall file with the Board: (1) a final witness and exhibit list; and (2) copies of all proposed exhibits. Each exhibit must be clearly labeled with an exhibit identifier and consecutive page numbers. The State shall label its exhibits numerically (e.g., Ex. 1).
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	<p>Petitioner shall label his or her exhibits alphabetically (e.g., Ex. A). Each party shall provide an estimate of time necessary for their case presentation. On or before this date, the parties shall file with the Board a joint stipulation as to all facts, witnesses, and exhibits not reasonably in dispute. If a party fails to stipulate to any exhibit, it shall file with the Board a statement of its objections to that exhibit. The parties shall label any joint exhibits with roman numerals (e.g., Ex. I).</p>
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- 5) Communications regarding hearing schedules and procedures shall be sent via e-mail to Clerk@pla.in.gov.
- 6) Any party may be represented by counsel at the party's own expense.
- 7) A party who fails to attend or participate in a pre-hearing conference, hearing, or other later stage of this proceeding may be held in default or have the proceeding dismissed under Ind. Code § 4-21.5-3-24.
- 8) Any matters containing confidential material shall be marked "NOT FOR PUBLIC ACCESS" and submitted without redaction. Concurrent with such a filing, a version with all confidential information redacted shall be filed and marked "PUBLICLY ACCESSIBLE".

SO ORDERED this 28th day of April 2025

By:  for
Jennifer Miller, MSN, RN, President
Indiana State Board of Nursing

DISTRIBUTION

I certify that a copy of this Case Management Order has been duly served upon:

Ann M Terry
[REDACTED]

Service by E-mail

Lorie A Brown
Brown Law Office, PC
lorie@brownlaw1.com; amanda@brownlaw1.com

Service by E-mail and U.S. Mail

Hilary L. Brown
Office of the Attorney General
hilary.brown@atg.in.gov

Service by E-mail

4/28/2025

Date

Kayla Cridlin

Kayla Cridlin, Litigation Coordinator

Indiana Professional Licensing Agency
Indiana Government Center South
402 West Washington St., Room W072
Indianapolis, IN 46204
Phone: 317-232-2960
Fax: 317-233-4236
Email: Clerk@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.

Kremple, Rose

From: PLA Clerk
Sent: Thursday, April 4, 2024 8:15 PM
To: PLA Probation2
Subject: FW: Petition for Probation Withdraw - 28212520A
Attachments: A. Terry Successful Completion.pdf; Impaired Nursing.pdf; Professionalism and Ethics.pdf; Self Care and Coping.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

For probation review to withdraw. If approved send to scheduling team. Thank you!



Rachelle Cannon-Mason
Compliance Officer
Indiana Board of Accountancy
Indiana Professional Licensing Agency
402 W. Washington St., Rm. W072
Indianapolis, IN 46204
Phone (317) 234-8800; (317) 234-3025
Fax (317) 233-4236
Email RCannonMason@pla.in.gov
www.pla.in.gov

From: PLA Probation2 <Probation2@pla.IN.gov>
Sent: Monday, April 1, 2024 1:14 PM
To: PLA Clerk <Clerk@pla.IN.gov>
Subject: FW: Petition for Probation Withdraw - 28212520A

From: Group 02 <pla2@pla.IN.gov>
Sent: Monday, April 1, 2024 9:30 AM
To: PLA Probation2 <Probation2@pla.IN.gov>
Subject: FW: Petition for Probation Withdraw - 28212520A

From: Ann Terry <[REDACTED]>
Sent: Friday, March 29, 2024 12:21 PM
To: Group 02 <pla2@pla.IN.gov>
Subject: Petition for Probation Withdraw - 28212520A

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

To whom it may concern:

I am informally requesting withdraw / lift of my probation for nursing license 28212520A - Ann M Terry. Please see attached documentation which are the final steps to complete the requirements of my probation: IPRP program completion letter and CEUs saved by category requirements.

Please advise.

Thank you for your time,
Ann Terry

**BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NUMBER: 2019 NB 0346**

**IN THE MATTER OF THE LICENSE OF:)
ANN UTLEY, R.N.,)
LICENSE NO. 28212520A)**



FINAL ORDER ACCEPTING PROPOSED SETTLEMENT AGREEMENT

The State of Indiana (“Petitioner”), by Hilary L. Brown, Deputy Attorney General, and Ann Utley, R.N. (“Respondent”), by Counsel, Todd Ess, Esq., executed a Proposed Settlement Agreement (“Agreement”) in disposition of all issues raised in the Administrative Complaint filed with the Indiana State Board of Nursing (“Board”) in this cause on December 5, 2019. This Agreement was submitted to the Board for its consideration on July 9, 2021.

The Board, after reviewing the Agreement at its July 15, 2021 meeting held via WebEx Audio and Video Conferencing through the Indiana Professional Licensing Agency, 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 final resolution of this matter. The Board approved this Agreement by a vote of 6 to 0 to 0.

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

WHEREFORE, by the Board’s acceptance of the Agreement, and upon the issuance of this Order, Respondent’s license will be immediately subject to Indefinite Probation and its terms and conditions as set for in the Agreement.

SO ORDERED, this 31st day of August 2021.

INDIANA STATE BOARD OF NURSING

By: Alyssa Greig for
Kim Cooper, R.N.
Board President
Indiana State Board of Nursing

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CERTIFICATE OF SERVICE

I certify that a copy of the "Final Order Accepting Proposed Settlement Agreement" has been duly served upon:

Ann Utley, R.N.


Service by U. S. Mail

Todd Ess
Brown Law Office, P.C.
6214 Broadway Street
Indianapolis, IN 46220
Service by U.S. Mail

Hilary L. Brown
Deputy Attorney General
Office of the Indiana Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204
Hilary.Brown@atg.in.gov
Service by Email

9.3.2021
Date

Lisa Chapman
Lisa Chapman, Litigation Coordinator

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

Explanation of Service Methods

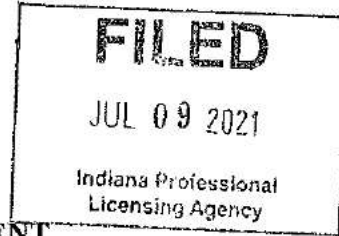
Personal Service: by delivering a true copy of the aforesaid document(s) personally.

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.: 2019 NB 0346

IN THE MATTER OF THE LICENSE OF)
ANN UTLEY, R.N.)
LICENSE NO: 28212520A (ACTIVE))



PROPOSED SETTLEMENT AGREEMENT

The State of Indiana ("Petitioner"), by counsel, Deputy Attorney General Hilary L. Brown, and Ann Utley, R.N. ("Respondent"), by Counsel, Todd Ess Esq., hereby execute this Proposed Settlement Agreement ("Agreement") in disposition of the Administrative Complaint filed in this Cause on December 5, 2019. This Agreement is subject to review and approval of the Indiana State Board of Nursing ("Board") pursuant to Ind. Code § 25-1-9 and the Administrative Orders and Procedures Act, Ind. Code § 4-21.5-3.

STIPULATED FACTS

1. Respondent is a Registered Nurse ("RN") in the State of Indiana, having been granted RN License Number 282125202A on or about October 22, 2013, by the Board.
2. Respondent's address on file with the Board is [REDACTED]
3. On August 13, 2018, Respondent was hired as an RN at Deaconess Hospital ("Deaconess") located in Evansville, Indiana.
4. On April 30, 2019, Respondent was found to be asleep on duty, difficult to arouse, exhibited slurred speech and briefly collapsed.

Exhibit
A

5. Respondent was given a reasonable suspicion drug test that day and was suspended from duty pending the results of the drug test.

6. On May 7, 2019, the results of the drug test indicated positive results for oxycodone and cyclobenzaprine.

7. Respondent's bag was searched prior to her leaving and loose, unwrapped tablets were discovered in her purse. These tablets were identified as cyclobenzaprine.

8. It could not be determined where the cyclobenzaprine tablets came from. The tablets could not be traced back to a resident at the facility. Respondent does not have a prescription for cyclobenzaprine.

9. On January 3, 2017, Respondent filled a prescription for thirty (30) oxycodone HCL 5 mg tablets. In her response Respondent states she took some of the 2017 oxycodone prescription prior to being drug tested in April 2019.

10. On May 7, 2019, Respondent was terminated from Deaconess.

11. On September 26 2019, Respondent submitted her license renewal application and answered "NO" when asked if she had been terminated, reprimanded, disciplined, or demoted in the scope of her practice as a nurse since she last renewed her license. Respondent should have answered affirmatively that she had been terminated from Deaconess in May 2019.

12. Respondent admits that she had medication in her purse that was not prescribed to her, but that the medication did not come from Deaconess.

13. On January 1, 2020, Respondent entered into a three (3) year Recovery Monitoring Agreement ("RMA") with ISNAP.

14. As of May 26, 2021, Respondent is compliant with her RMA.

15. ISNAP did not place any work restrictions on Respondent for the length of her RMA, as such, she has continued working as a Unit Manager at Newburgh Healthcare Center (“Newburgh”), a skilled nursing and rehabilitation facility in Newburgh, Indiana. Respondent has worked for Newburgh since 2013.

16. Respondent provided Petitioner documentation indicating that Newburgh has had no problems with Respondent as an employee, nor as a supervisor; Newburgh would like for Respondent to continue in her role as a supervisor.

STIPULATED CONCLUSIONS OF LAW

1. Respondent’s violations are cause for disciplinary sanctions which may be imposed singularly or in combination, such as censure, letter of reprimand, probation, suspension, and permanent revocation, and the imposition, of a fine in any amount up to \$1,000.00 per violation as detailed in Indiana Code § 25-1-9-9.

2. Respondent violated Ind. Code § 25-1-9-4(a)(3) in that Respondent knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question as evidenced by Respondent’s violation of 848 IAC 2-3-3(1) by using unsafe judgment, technical skills, or inappropriate interpersonal behaviors in providing nursing care.

3. Respondent violated Ind. Code § 25-1-9-4(a)(3) in that Respondent knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question as evidenced by Respondent’s violating 848 IAC 2-2-3(11), by diverting prescription drugs for one’s own or another person’s use.

4. Respondent violated Ind. Code § 25-1-9-4(a)(8)(A) in that Respondent diverted a legend drug (as defined by Ind. Code § 16-18-2-199).

5. Respondent violated Ind. Code § 25-1-9-4(a)(4)(D) in that Respondent's addiction to, abuse of, or severe dependency on alcohol or other drugs endangers the public by impairing a practitioner's ability to practice safely.

6. Respondent violated Ind. Code § 25-1-9-4(a)(1)(A) in that Respondent engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice when renewing her nursing license in 2019.

AGREED DISPOSITION

The agreement of the parties as stated above establishes a sufficient factual and legal basis for the discipline of Respondent's nursing license.

WHEREAS, this matter is pending before the Board; and

WHEREAS, the Respondent and Petitioner wish to resolve this matter prior to a hearing and have reached this resolution.

The Parties hereby agree 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 Administrative Complaint and all other proceedings in this action to which either party may be entitled by law, including judicial review.
4. Petitioner agrees 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 license shall be placed on **INDENFINITE PROBATION** unless or until she has **successfully completed her RMA with ISNAP**.

6. While on probation, Respondent's license shall be governed by the following

TERMS AND CONDITIONS:

- a. Respondent must maintain **full, continuous compliance with ISNAP** throughout the duration of her RMA. Full compliance shall mean Respondent has **no missed urine drug screens, no positive urine drug screens, and complies with the policies of ISNAP** regarding dilute urine drugs screens and screen excusal;
- b. Respondent shall keep the Board informed of her residential address, email address, and telephone number at all times;
- c. Respondent shall keep the Board informed of her employer(s) name, address, and telephone number all times;
- d. Respondent shall not violate any statutes or rules regulating the practice of nursing;
- e. Respondent shall have any nursing employer sign and return a copy of the Final Order within ten (10) days after receiving the Board's Order accepting the parties' Proposed Settlement Agreement. Should her employment change, Respondent shall submit a new, signed copy of the Order from each new employer within ten (10) days of beginning employment;
- f. Respondent shall cause her nursing employer to submit **quarterly reports** to the Board addressing Respondent's duties, responsibilities, character, and performance in her professional capacity;

- g. If not employed in a nursing capacity, Respondent shall submit **self-reports** to the Board addressing her employment activities, any attempts to return to the nursing profession, and any activities to further or maintain her nursing skills;
- h. Respondent **may not work in home healthcare** or as a **school nurse**; and
- i. Respondent **shall report any discipline** imposed upon her by her nursing employer(s) **within 48 hours** of such occurrence.

7. Prior to petitioning for withdrawal of the probation, Respondent shall submit proof to the Board of completion of **FIFTEEN (15) hours of Continuing Education**, within the following categories:

- a. Not less than **FIVE (5) hours** in Impaired Nursing;
- b. Not less than **FIVE (5) hours** in Selfcare and Coping; and
- c. Not less than **FIVE (5) hours** in Professionalism and Ethics.

All continuing education courses must be approved by the Board prior to being accepted for credit.

8. Prior to petitioning for the withdrawal of probation, Respondent shall pay a **FINE of FIVE HUNDRED DOLLARS (\$500.00)** to be made payable to the Indiana Professional Licensing Agency via check or money order, submitted to the following address:

Indiana Professional Licensing Agency
Attn: Board of Nursing
402 West Washington Street, W072
Indianapolis, Indiana 46204

9. Pursuant to Ind. Code § 4-6-14-10(b), Respondent shall 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 within ninety (90) days of the issuance of the Final Order in this matter, submitted to the following address:

Indiana Office of the Attorney General

Attn: Executive Assistant, Consumer Protection Division
302 West Washington Street, 5th Floor
Indianapolis, IN 46204

10. Any and all reports and documentation shall be sent to the following address or as otherwise directed by the Board:

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

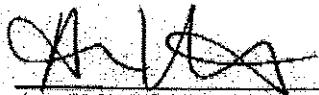
11. Respondent has carefully read and examined this Agreement and fully understands its terms and that, subject to a Final Order issued by the Board, this Agreement is a final disposition of all matters and not subject to further review.

12. 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.

13. Respondent also understands that becoming eligible to petition for the withdrawal of probation from her license under the terms and conditions set forth in this agreement, **DOES NOT** guarantee that the Board will withdraw the probation following a hearing. Respondent further understands that the Board's standard for withdrawing or modifying a probation is found in Ind. Code § 25-1-9-9(b), *The board may withdraw or modify probation...if it finds, after a hearing, that the deficiency that required disciplinary action has been remedied, or that changed circumstances warrant a modification of the order.*

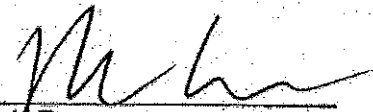
14. Respondent acknowledges that probation the length of her RMA is the **MINIMUM** amount of time she will be on probation, and that she must continue to be compliant with the terms of her probation unless or until a hearing is held by the Board giving her permission to have her probation withdrawn.

15. 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.




Ann Utley, R.N.
Respondent

7/7/2021
Date



Todd Ess
Counsel for Respondent

7/7/2021
Date



Hilary L. Brown
Deputy Attorney General
Attorney No.: 29182-29

7/8/21
Date