

BEFORE THE INDIANA
STATE BOARD OF NURSING
CAUSE NUMBER: 2012 NB 0171

IN THE MATTER OF THE LICENSE OF:)
HEATHER THARBS, L.P.N.,)
LICENSE NUMBER: 27069096A)



FINAL ORDER

Kimberly Coper, R.N., designated by the Indiana State Board of Nursing ("Board"), pursuant to Ind. Code § 4-21.5-3-9 to act as an administrative law judge ("ALJ") held an administrative hearing on June 2, 2016, concerning Heather Tharbs' request to withdraw the probation from her license as a nurse.

A copy of the ALJ's "Recommended Findings of Fact, Conclusions of Law and Order" is attached hereto as **Exhibit A** and made a part hereof.

Pursuant to Ind. Code § 4-21.5-3-29(c) the Board, at its meeting of July 21, 2016, votes 7 to 0 to affirm said Recommended Findings of Fact, Conclusions of Law and Order and adopt it as a final order in this proceeding.

The **PROBATION** on Tharbs' license is **WITHDRAWN**.

SO ORDERED this 22nd day of July,
2016.

INDIANA STATE BOARD OF NURSING

By: Maureen Bennett
for Natalie Hall, R.N.
Board President
Indiana State Board of Nursing

CERTIFICATE OF SERVICE

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

Heather Tharbs, L.P.N.
1015 South Sylvan Lane
South Bend, IN 46619
Service by U.S. Mail

Zanna Claire Dyer
Attorney General's Office
302 West Washington Street
IGCS - 5th Floor
Indianapolis, IN 46204
Service by Email

7/22/2016
Date


Lisa Chapman, Litigation Specialist

Indiana State Board of Nursing
Indiana Government Center South
402 West Washington St., Room W072
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Explanation of Service Methods

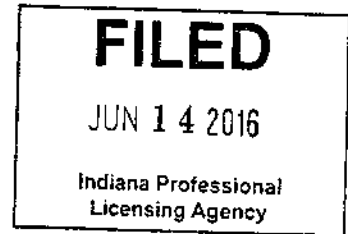
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BEFORE THE INDIANA
STATE BOARD OF NURSING
CAUSE NUMBER: 2012 NB 0171

IN THE MATTER OF THE LICENSE OF:)
HEATHER THARBS, L.P.N.,)
LICENSE NUMBER: 27069096A)



**RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND
ORDER**

Kimberly Cooper, R.N., designated by the Indiana State Board of Nursing (“Board”) pursuant to Ind. Code § 4-21.5-3-9 to act as an administrative law judge (“ALJ”) held an administrative hearing on June 2, 2016, in Conference Room 4 of the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana, concerning Heather Tharbs’ request to withdraw the probation from her license as a nurse.

Tharbs appeared in person and waived her right to be represented by counsel. Zanna Claire Dyer of the Attorney General’s Office represented the State of Indiana.

The ALJ, after considering the evidence presented and taking official notice of the file in this matter issues the following Recommended Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Tharbs, whose mailing address is 1015 South Sylvan Lane, South Bend, Indiana 46619, is a practical nurse with license number 27069096A.

Exhibit
A

2. Tharbs received timely and proper notice of the date, time, and location of this hearing pursuant to Ind. Code § 4-21.5-3-20.

3. The Board is empowered to hold this administrative hearing pursuant to the authority of Ind. Code § 25-1-9-9 and Ind. Code ch. 4-21.5-3.

4. The Board issued Tharbs' license on probation in April 2012 because she had been charged with domestic violence in 2006 and convicted of possession of marijuana in 2007. She was also convicted of attempted fraud and receipt of stolen property for the use of a stolen credit card. She completed her probation for that crime on March 21, 2012. Tharbs is seeking to have these criminal records expunged.

5. In January 2013 Tharbs requested that the probation be withdrawn from her license.

6. At the hearing on withdrawal of probation, Tharbs testified that she had complied with the terms of her probation but had not been able to find a job as a nurse. The duration of her probation was to be six months of active nursing practice and she had been unable to meet that requirement. Tharbs claimed to have applied for about one hundred jobs.

7. The deficiency that led to issuing Tharbs' license on probation was her dishonest behavior evidenced by her conviction for fraud and receipt of stolen property for the use of a stolen credit card. The Board realized it is difficult for a new practical nurse to find a job with a probationary license but the Board must also be satisfied that in the future Tharbs will conduct herself in a safe and honest manner. Thus, in an order issued in May 2014, the Board modified Tharbs' probation to require six months of

employment from any employer, not necessarily a nursing employer, and required that Tharbs' employer submit quarterly reports.

8. In April 2016 Tharbs requested that the probation be withdrawn from her license.

9. At the hearing on withdrawal of probation, Tharbs presented evidence that she had complied with the terms of her probation which included completing her term of employment and submitting favorable employer reports.

10. The deficiency that led to the probation on Tharbs' license involved criminal behavior. Tharbs' compliance with her probation constitutes evidence that the deficiency that required probation has been remedied.

CONCLUSIONS OF LAW

1. "The board may withdraw or modify the 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." Ind. Code § 25-1-9-9(b).

2. Tharbs' compliance with her probation constitutes evidence that the deficiency that required probation has been remedied.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the ALJ recommends the Board **WITHDRAWS** the **PROBATION** on Tharbs' license.

SO ORDERED, this 14th day of June, 2016.

INDIANA STATE BOARD OF NURSING

By: Maureen Benoit
for Natalie Hall, R.N.
Board President
Indiana State Board of Nursing

**NOTICE OF RIGHT TO OBJECT TO RECOMMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

Either party may object to the ALJ's Recommended Findings of Fact, Conclusions of Law and Order: but any objection must be filed with the Indiana State Board of Nursing, identifying the basis of the objection with reasonable particularity, no later than eighteen days from the ISSUANCE of this order unless such date is a Saturday, a Sunday, a legal holiday under state statute or a day that the Indiana Professional Licensing Agency offices are closed during regular business hours in which case the deadline would be the first day which is not a Saturday, a Sunday, a legal holiday under state statute or a day that the Indiana Professional Licensing Agency offices are closed during regular business hours. The ALJ's Recommended Findings of Fact, Conclusions of Law and Order is not the final order of the Indiana State Board of Nursing in this proceeding. In the absence of any objection, the Indiana State Board of Nursing may affirm the ALJ's Recommended Findings of Fact, Conclusions of Law and Order as its final order or will serve notice of its intention to review any issue related to the ALJ's Recommended Findings of Fact, Conclusions of Law and Order.

CERTIFICATE OF SERVICE

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

Heather Tharbs, L.P.N.
1015 South Sylvan Lane
South Bend, IN 46619
Service by U.S. Mail

Zanna Claire Dyer
Attorney General's Office
302 West Washington Street
IGCS - 5th Floor
Indianapolis, IN 46204
Service by Email

6.14.2016
Date


Lisa Chapman, Litigation Specialist

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