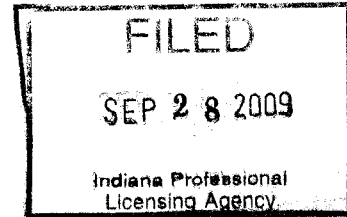


IN THE MATTER OF THE)
)
LICENSE OF JASON GARY WINNINGHAM, L.P.N.)
)
LICENSE NO: 27055914)



COMPLAINT

This complaint is brought against the nursing license of Jason Gary Winningham, L.P.N., by the State of Indiana, by counsel, Deputy Attorney General, Elizabeth Kiefner Crawford, on behalf of the Office of the Attorney General (“Petitioner”) and pursuant to Indiana Code § 25-1-7-7, Ind. Code §25-1-5-3, Ind. Code §25-22.5 et seq., the Administrative Orders and Procedures Act, Ind. Code § 4-21.5-3 et seq. and Ind. Code § 25-1-9-1 et seq., and in support alleges and states:

FACTS

1. Respondent’s address on file with the Indiana State Board of Nursing 2502 North Lafayette, Evansville, Indiana 47711 and he is a licensed practical nurse holding Indiana license number 27055914.
2. On or about August 16, 2005 Respondent was arrested in Monroe County, Indiana for operating while intoxicated.
3. On or about August 17, 2005 Respondent pled guilty to Operating with a Blood Alcohol Content of .15 in Monroe County, Indiana Cause No. 53C05-0508-CM-02721. Respondent was sentenced to 180 days in jail, suspended; one year of supervised probation; and public restitution.

3. On or about September 21, 2005 Respondent initiated contact with the Indiana State Nurses Assistance Program ("ISNAP").

4. On or about November 3, 2005 Respondent was diagnosed with alcohol dependence. ISNAP recommended a three (3) year Recovery Monitoring Agreement ("RMA") which Respondent signed on November 28, 2005.

5. On or about October 31, 2006 Respondent renewed his Indiana Nursing License and answered "NO" to all questions including Question #3 which read, "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?" despite the fact that he pled guilty to Operating A Vehicle With a BAC of .15 in August 2005.

6. On or about December 26, 2006 Respondent was reported as a "self termination" from Beverly Healthcare in Bloomington, Indiana after he was a "No Call, No Show" for three (3) shifts.

7. On or about January 8, 2007 Respondent gained employment as a nurse at Blooming Nursing and Rehabilitation in Bloomington, Indiana.

8. On or about May 8, 2007 Respondent's ISNAP drug screen was positive for ethanol alcohol at 59ng/dl. Respondent alleged the positive result was due to his use of mouthwash. ISNAP sent the positive UDS for an EtG test.

9. On or about June 5, 2007 ISNAP received the results of the EtG test which was positive at >10,000 ng/ml. ISNAP contacted Respondent and requested that he stop working. When confronted, Respondent admitted to a relapse and was referred to Dr. Hinchman for reevaluation.

10. On or about June 6, 2007 Dr. Hinchman completed a Diagnostic Assessment on Respondent. Dr. Hinchman indicated that Respondent refused to go into an Intensive Outpatient Program ("IOP") so he recommended a significant increase in urine drug screens with EtG in every test.

11. On or about June 6, 2007 ISNAP's clinical team implemented Dr. Hinchman's recommendations and extended Respondent's ISNAP RMA an additional six (6) months through May, 2009.

12. On or about August 24, 2007 ISNAP's clinical team reviewed Respondent's non-compliance and extended Respondent's ISNAP RMA an additional three (3) months through August, 2009. Respondent remained in partial compliance until March 20, 2008.

13. On or about March 20, 2008 Respondent's worksite monitor contacted ISNAP and indicated that Respondent admitted to drinking, was a No Show No Call for work and that he was terminated from Bloomington Nursing and Rehabilitation.

14. On or about April 28, 2008 Dr. Hinchman evaluated Respondent. Dr. Hinchman indicated that Respondent minimized the incident leading to his termination, was in extreme denial, and that Respondent, "seems clueless with regard to the seriousness of his disease." Dr. Hinchman indicated Respondent, "should not work as a nurse until he has become well engaged in treatment and has been reevaluated."

15. On or about May 13, 2008 ISNAP's clinical team reviewed Respondent's relapse and recommended IOP and extending Respondent's ISNAP RMA an additional six (6) months through November, 2009.

16. Respondent was scheduled to begin IOP on June 23, 2008. Respondent informed ISNAP in July 2008 that he would begin IOP after obtaining a construction job. In August 2008 Respondent indicated he was moving to Maryland. ISNAP staff instructed Respondent to contact the Maryland Board of Nursing and begin monitoring in Maryland. Respondent failed to do so.

17. In November 2008 Respondent contacted ISNAP and indicated that he was moving to Evansville, Indiana. ISNAP referred Respondent to Dr. James Macke for another evaluation.

18. On or about November 26, 2008 Dr. Macke evaluated Respondent. Dr. Macke indicated, “[A]t this point, it is difficult if not impossible to assess the strength of his addiction recovery. He has gone through a lot of change recently and has not been monitored. It would be my recommendation that at a minimum he be monitored for several weeks, pass several drug screens get integrated into the local recovering community, and then could be released to work.”

19. On or about December 2, 2008 ISNAP’s clinical team reviewed Dr. Macke’s assessment. The clinical team required Respondent to enter treatment at Stepping Stone and extended his ISNAP RMA an additional three (3) months through February, 2010.

20. On or about January 14, 2009 ISNAP received correspondence from Stepping Stone indicating Respondent did not qualify for their program and that he had nine (9) months of sobriety.

21. On or about January 19, 2009 ISNAP's clinical team met and decided that they would not require additional treatment. ISNAP contacted Respondent and requested that he renew his Indiana State Nursing License.

22. On or about January 20, 2009 ISNAP found that Respondent was in significant non-compliance due to missing reports and his failure to complete urine drug screens on six (6) occasions from October to December 2008.

23. On or about February 15, 2009 Respondent renewed his Indiana Nursing License and answered "NO" to all Questions including Question 5 which reads, "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?" despite the fact that he was terminated from Bloomington Nursing and Rehabilitation in March 2008.

24. On or about March 5, 2009 Respondent's ISNAP file was closed due to his pattern of relapse and non-compliance with ISNAP.

COUNT I

Respondent is in violation of Indiana Code § 25-1-9-4(a)(4)(D) in that the Respondent 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 as evidenced Respondent's diagnosis of alcohol dependence and by the decision of the Indiana State Nurses Assistance Program to close out his file on March 4, 2008 due to his pattern of relapse and non-compliance.

COUNT II

Respondent is in violation of Indiana Code § 25-1-9-49(a)(1)(A) in that the Respondent engaged in material deception in order to obtain a license to practice as evidenced by the Respondent's failure to report his August 2005 criminal conviction on his 2006 Indiana Nursing renewal.

COUNT III

Respondent is in violation of Indiana Code § 25-1-9-49(a)(1)(A) in that the Respondent engaged in material deception in order to obtain a license to practice as evidenced by the Respondent's failure to report his termination from Bloomington Nursing and Rehabilitation on his 2008 Indiana Nursing renewal.

WHEREFORE, Petitioner demands an order against the Respondent, that:

1. Imposes the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all the cost incurred in the prosecution of this case;
3. Provides any other relief the Board deems just and proper.

Respectfully submitted,

GREGORY F. ZOELLER
Attorney General of Indiana

By: 

Elizabeth Kiefner Crawford
Deputy Attorney General
Attorney Number: 24261-49A

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302 West Washington Street
Indianapolis, Indiana 46204-2770
(317) 234-2257

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "Complaint" has been served upon the Respondent listed below, by United States mail, first class postage prepaid, on this 28th day of September, 2009.

Jason Gary Winningham
2502 North Lafayette Avenue
Evansville, IN 47711



Elizabeth Kiefner Crawford
Deputy Attorney General