

STATE OF IOWA  
BEFORE THE BOARD OF NURSING HOME ADMINISTRATORS

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IN THE MATTER OF:	)	CASE NO. NHA 09-004
	)	DIA NO. 10DPHNH001
Roger Holdeman	)	
License No. 02445	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

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On July 15, 2010, the Iowa Board of Nursing Home Administrators (Board) issued a Notice of Hearing and Statement of Charges against Roger Holdeman (Respondent) charging him with the following two counts:

Count I: Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice as a nursing home administrator, pursuant to Iowa Code section 147.55(5) and 645 IAC 144.2(13).

Count II: Engaging in unethical conduct in violation of Iowa Code section 147.55(3) and 645 IAC 144.2(4).

The hearing was held on October 21, 2010 at 1:00 p.m. in the Lucas State Office Building, fifth floor conference room, in Des Moines, Iowa. Respondent Roger Holdeman appeared and was self-represented. The state was represented by Assistant Attorneys General September Lau and Chantelle Smith. The following Board members were present for the hearing: Michael Svejda, NHA; Patrice Herrera, RN, MSN; Jeanine Bunge, NHA; Cynthia Thorland, NHA; Thomas Kenefick, R.Ph; and Mabel Mantel, public member. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. The hearing was closed to the public at Respondent's request, pursuant to Iowa Code section 272C.6(1)(2009), and was recorded by a certified court reporter. After hearing the testimony and examining the exhibits, the Board convened in closed session, pursuant to Iowa Code section 21.5(1)(f)(2009), to deliberate its decision. The administrative law judge was instructed to prepare the Board's written decision, in accordance with its deliberations.

## THE RECORD

The record includes the testimony of Roxanne Neary, Jerry Nicholls, Thomas Wagg, Respondent, and Respondent Exhibit A (pp. 1-23) and State Exhibits B-G.

## FINDINGS OF FACT

1. Respondent was employed at the Greenwood Manor, which is a licensed nursing facility in Iowa City, from October 2003 until March 9, 2007. When Respondent was initially hired, Jerry Nicholls owned Greenwood Manor, and Harold Schug was its licensed administrator. Respondent's wife, Lynne Holdeman, was the Director of Nursing. Respondent was initially hired to perform maintenance work but was later promoted to Business Manager.

When Harold Schug left Greenwood Manor in April 2004, Respondent apparently assumed his duties, although he was not a licensed administrator. In January 2005, the Board approved Respondent's Application for a Provisional License as a Nursing Home Administrator. Provisional licenses are issued for no more than twelve months.<sup>1</sup> The Board authorized Respondent to serve as Greenwood Manor's Provisional Administrator from January 21, 2005 until January 20, 2006.

Respondent continued to perform the duties of an administrator at Greenwood Manor, even after he no longer had a provisional license. At that time, Respondent was attending college on-line to finish his degree in healthcare administration. Jerry Nicholls was the licensed administrator of record for Greenwood Manor, but Mr. Nicholls was present at the facility less than 40 hours per week. Most people considered Respondent to be the facility's administrator. As the Director of Nursing, Lynne Holdeman reported to Respondent. (Respondent; Nicholls testimony; Respondent Exhibit A, pp. 1, 5, 7-10, 17, 93; State Exhibit G, p. 120)

2. Lynne Holdeman resigned from Greenwood Manor effective December 31, 2006. Respondent resigned from Greenwood Manor effective March 9, 2007. (Respondent testimony; Exhibit A, pp. 9, 13, 20)

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<sup>1</sup> 645 IAC 141.7.

3. In June 2007, Lynne Holdeman applied for a nursing position with Signature Health and was asked to provide a written professional reference with her application. Mrs. Holdeman filled out the top portion of a "Professional Reference Request" form indicating that "Roger Holdeman, Administrator of Greenwood Post Acute" at 605 Greenwood Drive in Iowa City, Iowa would be completing the reference as her evaluator. The reference request form required the evaluator to indicate the applicant's level of performance based on the following 12 criteria: quality of work, productivity, professionalism, flexibility, emotional stability, dependability, enthusiasm, leadership ability, communication skills, attendance/punctuality, appearance, and customer service skills. Mrs. Holdeman also signed a release form authorizing "Roger Holdeman, Administrator of Greenwood" to release information about her to Signature Health Care. (State Exhibit C, pp. 2-3)

Respondent completed the reference form for his wife. He checked boxes indicating that Lynne Holdeman "Exceeds Expectations" on all 12 criteria. He circled "Resigned" as the "Reason this Healthcare Professional left your facility." Under "Additional Comments," Respondent wrote:

Lynne is a very organized, care oriented, and caring RN. She values all patients and puts their care first. We miss her and her inputs.

Respondent checked "yes" to the question "Would you rehire this person?" Respondent signed and dated the form on June 5, 2007. (State Exhibit C; Respondent testimony)

Respondent faxed the reference for his wife to Signature Health with a Fax Cover Sheet. The cover sheet had the name "Greenwood Post Acute and Rehab Center" printed on it, along with the address of Greenwood Manor. Respondent's name was also printed on the Fax Cover Sheet under the facility's name, along with his personal cell phone number. The business telephone number for Greenwood Manor did not appear anywhere on the Fax Cover Sheet. The Cover Sheet indicated that it was from "Roger Holdeman, Administrator." Under "Comments", Respondent wrote:

Lynne brought me the professional reference request form with release, to fill out and fax "asap" to 515-276-5506. If you have any further questions, do not hesitate to call me @319-530-9157.

The telephone number provided was Respondent's personal cell phone.  
(State Exhibit C; Testimony of Respondent; Roxanne Neary)

4. Respondent was not the Administrator of Greenwood Manor on June 5, 2007, and he had not been employed by the facility for three months at the time he wrote this reference. Jerry Nicholls had never seen the Fax Cover Sheet form used by Respondent on June 5, 2007. The facility's official name had never been known as Greenwood Post Acute and Rehab Center, although the sign in front of the facility indicates that the facility provides post acute and rehabilitation care. (Nicholls; Respondent testimony)

5. On December 20, 2007, the Board issued Respondent Iowa license number 02445 to practice as a licensed nursing home administrator in the state of Iowa. Respondent's administrator license is current and will next expire on December 31, 2011. (State Exhibit F) Respondent was hired as the licensed administrator for Sigourney Care Center on April 18, 2008. Respondent's supervisor from Sigourney Care Center described him as a very dependable and ethical employee. However, Sigourney Care Center terminated Respondent's employment due to his "legal situation" and public perception based on information in the newspapers. (Testimony of Thomas Wagg; Respondent)

6. On June 15, 2009, Respondent was convicted in Polk County District Court of Tampering with Records, an aggravated misdemeanor. The conviction was based on Respondent sending the professional reference for his wife to Signature Health, representing himself as the Administrator of Greenwood Manor. Respondent was sentenced to one year of incarceration, but the sentence was suspended and Respondent was placed on probation for one year. Respondent testified that his probationary term was reduced to six months, but he did not submit any documentation to verify this. (State Exhibit B; Testimony of Roxanne Neary; Respondent)

## CONCLUSIONS OF LAW

### *Count I*

The Board is authorized to revoke, suspend, or otherwise discipline a license when the licensee is convicted of a crime related to the profession or occupation of the licensee or for the conviction of any crime that would affect the licensee's

ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.<sup>2</sup>

The preponderance of the evidence established that Respondent was convicted of the aggravated misdemeanor crime of Tampering With Records.<sup>3</sup> The preponderance of the evidence further established that this crime relates to the practice of a nursing home administrator and affects Respondent's ability to practice within the profession, in violation of Iowa Code section 147.55(5)(2009) and 645 IAC 144.2(13). Licensed nursing home administrators are responsible for creating, maintaining, and submitting accurate and truthful records for a wide variety of purposes. Governmental agencies, health care providers, and the general public must be able to rely on the accuracy of documentation created and maintained by nursing home administrators. It is essential for licensed nursing home administrators to be honest individuals who respect and abide by their professional and ethical responsibilities.

Respondent submitted testimony and exhibits at hearing in an attempt to show that he did not intend to misrepresent himself or to deceive anyone when he completed the professional reference for his wife. However, the certified copy of Respondent's conviction is conclusive evidence that he did commit a criminal act involving misrepresentation and/or deception.

Other credible evidence in the record fully supports the conclusion that Respondent intended to misrepresent his employment with Greenwood Manor when he submitted the professional reference for his wife. On its face, the reference gives the clear impression that Respondent was still employed as the Administrator of Greenwood Manor on June 5, 2007. At hearing, Respondent claimed that he personally spoke to Christi Hokel of Signature Health prior to providing the reference. Respondent described a very detailed telephone conversation with Ms. Hokel. Respondent contended that Ms. Hokel was made fully aware that Lynne Holdeman was his wife, that he no longer worked at Greenwood Manor, and that he was not a licensed administrator. Respondent further testified that Christy Hokel asked him to send the reference immediately and to mark it so it was easily identifiable. Respondent claimed that when he suggested he could use a Greenwood Fax Cover sheet that he had previously

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<sup>2</sup> Iowa Code section 147.55(5)(2009); 645 IAC 144.2(13)

<sup>3</sup> A person commits tampering with records if, knowing that the person has no privilege to do so, the person falsifies, destroys, removes, or conceals a writing or record, with the intent to deceive or injure anyone or conceal and wrongdoing. Iowa Code section 715A.5(2009).

used while working at Greenwood and which was still on his personal computer, Ms. Hokel told him that would be "perfect." (Respondent testimony) Despite this, Respondent did not put Christy Hokel's name on the Fax Cover Sheet. (State Exhibit C)

However, Respondent's testimony at his criminal trial contradicted his testimony before the Board. At his criminal trial, Respondent did not testify that he personally spoke to Christy Hokel. Rather, he testified that he overheard his wife speaking to Christy Hokel on the telephone while he and his wife were together in their bedroom office. Respondent further testified that he overheard his wife tell Ms. Hokel that her husband had been the administrator and her immediate supervisor at Greenwood Manor but that he was no longer employed there. (State Exhibit G, pp. 62-80). Respondent's wife accompanied Respondent to the Board hearing but did not testify.

In addition, DIA Investigator Roxanne Neary interviewed Christy Hokel in late August 2007, more than two months after Respondent submitted the reference. Ms. Hokel told Neary that she did not know that Respondent was Lynne Holdeman's husband or that he was no longer the administrator at Greenwood Manor when the reference was submitted. Christy Hokel told Neary that it was Jerry Nicholls who gave her this information. (Roxanne Neary testimony)

### *Count II*

The Board is authorized to revoke, suspend, or otherwise discipline a license when the licensee engages in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.<sup>4</sup> The preponderance of the evidence established that Respondent engaged in unethical conduct, in violation of Iowa Code section 147.55(3)(2009) and 645 IAC 144.2(4), when he misrepresented his employment and claimed to be the administrator of an Iowa nursing facility when providing a professional reference for his wife.

### DECISION AND ORDER

IT IS THEREFORE ORDERED that immediately upon receipt of this order, license number 02445, issued to Respondent Roger Holdeman, shall be placed on probation for a period of one year, subject to the following terms and conditions:

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<sup>4</sup> Iowa Code section 147.55(3)(2009); 144.2(4)

1. Respondent shall complete 30 hours of continuing education, and at least 15 of those hours shall be on the topic of professional ethics. These hours of continuing education must be pre-approved by the Board and may not be used for license renewal.
2. Prior to accepting any offer of employment in the field of health care, Respondent shall provide a copy of this Decision and Order to the prospective employer. Within ten (10) days of starting any employment in the health care field, Respondent shall ensure that his employer provides the Board with a signed and notarized original statement verifying that the employer has read the Board's Decision and Order and is familiar with its terms.
3. Respondent shall not serve as a preceptor for nursing home administrator interns during the period of probation.
4. Respondent shall file written reports to the Board for each quarter, beginning December 1, 2010. Quarterly reports are due on the following dates for the preceding quarter: March 10, June 10, September 10, and December 10. The quarterly reports shall be signed and notarized and shall include information concerning Respondent's current address, telephone number, and employment. Respondent shall report his compliance with all laws and rules applicable to licensure as a nursing home administrator, and all professional or ethical obligations related to his employment.
5. If Respondent violates any provision of this Decision and Order, the Board may hold a hearing, pursuant to Iowa Code section 272C.3(2)(a)(2009), and additional disciplinary action may be taken.
6. Successful completion of the probationary period shall constitute a final disposition of this matter.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6, that Roger Holdeman shall pay \$75.00 for fees associated with the disciplinary hearing and \$178.75 for the court reporter fees. The total fees of \$253.75 shall be paid within thirty (30) days of receipt of this decision.

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This finding of fact, conclusion of law, decision and order is approved by the board November 23, 2010.