

BEFORE THE KANSAS STATE BOARD OF NURSING

Landon State Office Building, 900 S.W. Jackson #1051
Topeka, Kansas 66612-1230

FILED
APR 5 2007

KSNB

IN THE MATTER OF
REBECCA THOUVENELLE
License No. 13-062583-051

Case No. 96-179-7, 97-502-7
OAH No. 07BN007

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 4th day of April, 2007, the Kansas State Board of Nursing, represented by Assistant Attorney General, Mark A. Knight, and the Respondent, Rebecca Thouvenelle, hereby enter into this agreement and proffer evidence and the hearing officer adopts those recommendations and makes the following findings of fact and orders:

AGREED FINDINGS OF FACT

1. Respondent's license to practice nursing in Kansas was revoked by default order on or about 1/22/2003. Respondent submitted a reinstatement application. A summary denial of respondent's license to practice nursing in Kansas was entered. The respondent submitted a timely appeal. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 1037 N Lewellen St, Wichita, KS 67203.
3. The Respondent understands that pursuant to K.S.A. 77-515, respondent may be represented at respondent's expense by, an attorney during these proceedings.
4. After an investigation, the Board's investigative committee found reasonable grounds to believe that the respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1120, and referred this matter for further proceedings.
5. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 et seq. to examine, license and renew license for duly qualified applicants and may limit, deny, suspend or revoke a license or authorization to practice nursing, may issue a public or private censure and levy administrative fines consistent with K.S.A. 74-1110, if a violation of K.S.A. 65-1120 is established.

6. (a) On or about October of 1997, in case number 96-179-7, an Initial Order was entered. In that Order respondent's license was suspended with a stay subject to certain conditions after a finding that respondent had violated K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (n), diverting drugs, supplies, or property of any patient or agency and K.S.A. 65-1120(a)(2), to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense without establishing sufficient rehabilitation.

(b) On or about February of 1998, in case number 97-502-7, a Proposed Default Order was entered. In that Order respondent's license was revoked by default order after a finding that respondent had violated K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board.

(c) Respondent filed an application for reinstatement in 2001. After a hearing in April of 2002 the respondent's license was reinstated. The respondent was ordered to meet the requirements of [REDACTED]

(d) In December of 2002 a motion to revoke respondent's license was filed. The motion alleged that the respondent failed to enroll in [REDACTED] as ordered. On or about 1/22/2003 a default order was entered revoking the respondent's license.

(e) On or about 9/7/2004 the respondent was convicted of felony DUI in the District Court of Sedgwick County, Kansas. The incident leading to the conviction occurred on or about 11/25/2003.

(f) On or about 5/4/2006 the respondent filed an application for reinstatement of her nursing license. Respondent provided information showing she has participated in [REDACTED]

[REDACTED]
Respondent also provided information showing she successfully completed criminal probation.

7. The above incidents are violations of the nurse practice act. The Respondent agrees that the board is prepared to prove that respondent has violated: K.S.A. 65-1120(a)(3),

Professional Incompetency by K.S.A. 65-1120(e)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing; K.S.A. 65-1120(a)(2), to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense without establishing sufficient rehabilitation; K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (s) failing to complete the requirements of the impaired provider program of the board.

8. Respondent has the right to a hearing with evidence and witnesses and to seek review of the findings from that hearing in accordance with the Kansas Administrative Procedure Act and the Act for Judicial Review and Civil Enforcement of agency actions. Respondent is waiving those rights and voluntarily entering into this agreement instead of proceeding to such a hearing.

CONCLUSIONS OF LAW

9. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 et seq. to examine, license and renew license for duly qualified applicants and may limit, deny, suspend or revoke a license or authorization to practice nursing, may issue a public or private censure and levy administrative fines consistent with K.S.A. 74-1110, if a violation of K.S.A. 65-1120 is established.

10. Respondent has violated the Kansas Nurse Practice Act as follows:

Count 1: K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

Count 2: K.S.A. 65-1120(a)(2), to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense without establishing sufficient rehabilitation.

Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (s) failing to complete the requirements of the impaired provider program of the board.

POLICY STATEMENT

11. The role of the Kansas State Board of Nursing is to protect citizens of Kansas.

DISPOSITION

12. By entering into this Consent Agreement and consenting to the entry of the Final Order, both parties waive their right to full administrative proceedings pursuant to K.S.A. 65-1120 and K.S.A.77-501 et seq. and to judicial review.

13. Upon the parties entering into this Consent Agreement and Final Order, the Respondent's application for reinstatement of Respondent's Kansas Nursing license will be granted once the following conditions have been met: (a) Respondent has met all statutory requirements for reinstatement of Respondent's Kansas Nursing License; (b) Respondent has entered the [REDACTED] has issued a written statement to the Kansas State Board of Nursing which states that the Respondent has completed two consecutive months of compliance in [REDACTED] and that the Respondent is safe to practice nursing in the State of Kansas.

14. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that this Consent Agreement and Final Order will continue through any renewal periods of respondent's nursing license until respondent completes each of the conditions and requirements of this agreement. Further, the parties agree that in the event of a lapse of Respondent's nursing license, reinstatement of Respondent's nursing license shall be contingent upon this Consent Agreement and Final Order remaining in effect until Respondent completes each of the conditions and requirements of this Consent Agreement and Final Order.

15. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that once Respondent's application for reinstatement of her license to practice nursing in Kansas is granted pursuant to paragraph 13 of this Consent Agreement and Final Order, then Respondent's license to practice nursing in Kansas will be

immediately suspended. The suspension will be stayed as long as the requirements and conditions of this agreement are met.

16. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that once Respondent's application for reinstatement of her license to practice nursing in Kansas is granted pursuant to paragraph 13 of this Consent Agreement and Final Order then the Respondent's license to practice nursing in Kansas will be immediately limited. The limitations placed on the license and described below will remain in place until the requirements and conditions of this agreement are met or until the requirements and conditions of this agreement call for the modification of the limitations.

17. The Kansas State Board of Nursing will not take additional disciplinary action against respondent's nursing license for the violations stated above as long as respondent completes each of the following conditions and requirements:

(a) **Respondent shall return his or her current license card to the Board with this Consent Agreement. Once Respondent's application for reinstatement of her license to practice nursing in Kansas is granted, Respondent shall receive a license card which shall be issued with an "S" placed in the status code portion of the license card to indicate that the license is suspended with a Stay. The card will have an "L" indicating the limitations on the practice.**

(b) **Respondent will participate in and complete the reasonable recommendations and requirements of the [REDACTED]** sign releases of information necessary for [REDACTED] to evaluate and monitor respondent and for [REDACTED] to report information to the board. Respondent will be deemed to have completed the [REDACTED] program when [REDACTED] issues written notification that respondent has completed the program. Noncompliance with [REDACTED] is a violation of this agreement.

(c) **Respondent must submit to random drug screens as determined or selected by the Board or by [REDACTED]** The costs of the drug screens will be paid by the respondent. Respondent agrees that a Positive Drug Screen is a violation of this agreement.

(d) **Respondent shall not seek or accept employment with a nursing registry, a temporary nursing service or agency, a home health care service or agency, or as a private duty nurse. Respondent shall not practice nursing without direct supervision. Respondent shall not work as a director of nursing or in a charge or supervising position.** After one year of employment in nursing positions without violating any terms of this agreement, Respondent may request that the employment limitations be removed from her license. Respondent's request shall include written verification from her employer, to the Kansas State Board of Nursing, as to whether the Respondent has been employed in positions that violate her license limitations. With a showing that the license limitations of this agreement have been met by the Respondent, and the Respondent is compliant with all other terms of this agreement, the employment limitations will be removed from her license and she will be issued a license card with no limitations on the practice.

(e) **Respondent shall immediately notify the Legal Division of any use of alcohol, if prohibited by [REDACTED] or controlled substances, or any violation of this Consent Agreement and Final Order.**

(f) **The respondent shall immediately inform all employers and prospective employers of this Consent Agreement and the Final Order.**

(g) **Respondent shall send a money order for \$70 to the Board upon entering into this agreement to pay the cost of this action.**

(h) **Respondent shall not violate the Kansas Nurse Practice Act during the duration of this agreement.**

lifted for a period of one year from the date of said finding. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension.

23. Respondent acknowledges and agrees that upon the Stay of Suspension being lifted due to a finding of non-compliance with this Consent Agreement, the Suspension will not again be Stayed until the Respondent has, following the prescribed time period of suspension, provided written verification to the Board that Respondent is in compliance with all conditions and requirements of this Consent Agreement. Upon the Respondent providing said written verification the suspension will again be stayed.

24. The Board will inactivate this case file once respondent satisfies this agreement. This agreement does not prohibit the agency from taking disciplinary action against Respondent's license for any additional or cumulative violation of the Kansas Nurse Practice Act committed by the Respondent before or after this agreement is entered into.

25. This agreement is a discipline and must be reported on any future renewal or reinstatement applications. This agreement is a contract entered into by the parties to resolve an investigative case. The original of this agreement shall be placed in the Agency Record and is a public record.

26. After successful completion of all of the conditions and requirements of this Consent Agreement by the respondent, the Consent Agreement will be satisfied and the case will be inactivated.

27. By signing this Consent Agreement and Final Order, Respondent acknowledges that Respondent has read and understands the entire document, and agrees to be bound by its terms. This Consent Agreement and Final Order constitute the entire agreement of the parties and may not be modified except in writing and approved by all parties.

28. The hearing/presiding officer whose signature appears below has been designated pursuant to K.S.A. 77-514 and K.S.A. 77-526 to act on behalf of the Board/agency head and to

additions. All such notifications shall be made in writing within fourteen (14) days of such a change.

18. Respondent acknowledges and agrees that Respondent is responsible for the costs related to satisfying the conditions and requirements of this Consent Agreement. Respondent further acknowledges and agrees that to provide the Board with false information regarding compliance with this Consent Agreement is a violation of this Consent Agreement.

19. If Respondent does not meet these conditions and requirements, the Kansas State Board of Nursing may request additional sanctions against Respondent's license or application for a license. Respondent would be sent notice of such action and would be entitled to a hearing as to whether Respondent had complied with this Consent Agreement, but Respondent could not contest the violations listed in this agreement.

20. All parties understand that if an action based on failure to meet the conditions and requirements of this Consent Agreement is filed, K.S.A. 77-531 requires the Notice of Hearing to be served upon the Respondent and the Respondent's attorney of record, if any. All parties agree that only serving the Notice of Hearing upon the Respondent will be proper service and it is the Respondent's responsibility to contact his or her attorney, if any, in reference to the action.

21. Respondent acknowledges and agrees that upon a first finding of Respondent not complying with the conditions or requirements of this Consent Agreement, the Stay of Suspension of Respondent's license to practice nursing in the State of Kansas, shall be lifted for a period of six months from the date of said finding. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension.

22. Respondent acknowledges and agrees that upon a second or subsequent finding of Respondent not complying with the conditions or requirements of this Consent Agreement the Stay of Suspension of Respondent's license to practice nursing in the State of Kansas, shall be

(i) Respondent shall **not violate the laws of the United States, of State, or of any political subdivision of any State** during the term of this agreement. Traffic infractions shall not be considered violations of the law.

(j) **Respondent will Submit Reports from the Respondent's employer to the attention of the Legal Division, Kansas State Board of Nursing, Landon State Office Building, 900 S.W. Jackson, Suite 1051, Topeka, Kansas 66612-1230 on the following schedule:** Prior to Respondent securing employment that utilizes his or her nursing license, Respondent is to mail to the Kansas State Board of Nursing a statement indicating that Respondent has not yet secured employment which utilizes Respondent's nursing license. This statement is due by the 10th day of each month beginning the next month after signing this consent agreement. Once Respondent is employed in a position that utilizes his or her nursing license, or if Respondent is currently employed in a position that utilizes his or her nursing license, a nursing performance report is due by the 10th day of every third Month **until Respondent has caused the submission of four (4) separate nursing performance reports.** The report shall be prepared and signed by Respondent's immediate supervisor or by an R.N. who evaluates Respondent's performance on a regular basis and be based on the following guidelines: (1) Incorporation of information on facility letterhead stationary is preferred. (2) Letter format is acceptable, with the date of the report identified. (3) Evaluator's name, telephone number, address, license number and nursing credentials. (4) Respondent's name, address, telephone number, license number. (5) A short explanation of the Respondent's work performance in the following areas: (a) Standards met regarding facility policies and procedures. (b) Compliance with the Kansas Nurse Practice Act. (c) Supervisor evaluations. (d) Overall appropriateness. (e) Interactions with patients. (f) Interactions with staff and administration.

(k) **Respondent agrees to notify the Legal Division of any changes in address and phone number as well as all employment terminations or employer changes or**

hear discipline cases on behalf of the Board/agency head and to render either initial orders or final orders, if by agreement of both parties, in those discipline cases.

IN WITNESS WHEREOF, the parties hereto execute this CONSENT AGREEMENT AND FINAL ORDER.

IT IS SO ORDERED.

Rebecca Thouvenelle
Respondent
1037 N Lewellen St
Wichita, KS 67203

Rebecca Thouvenelle must sign before a Notary Public.

State of Kansas, County of Sedgewick ss.
SUBSCRIBED AND SWORN TO before, me by Rebecca Thouvenelle
on this 2nd day of April, 2007.



My Commission Expires 3/13/2011
(Notary Public Seal)

Mark A. Knight, #12183
Assistant Attorney General
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612-1230

Sandra L. Sharon, Hearing Officer

CERTIFICATE OF SERVICE

On the 5th day of April, 2007, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Rebecca Thouvenelle
1037 N Lewellen St
Wichita, KS 67203

Mark A. Knight, #17183
Assistant Attorney General
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612-1230