

BEFORE THE KANSAS STATE BOARD OF NURSING

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

Filed
MAY - 3 2004
Board of Nursing

IN THE MATTER OF
ELIZABETH FINCH
LICENSE NO. 13-073017-062

CASE NO. 03-395-9

CONSENT AGREEMENT TO LIMIT LICENSE AND FINAL ORDER

NOW ON THIS 26th day of April, 2004, the Kansas State Board of Nursing, represented by Assistant Attorney General, Betty Wright, and the respondent, Elizabeth Finch, enter into the following agreement:

1. Respondent is licensed to practice nursing in Kansas as a Registered Nurse until 6/30/2004.
2. Respondent's address of record is 2768 9TH Rd, Barnes, KS 66933.
3. After an investigation, the Board's investigative committee found reasonable grounds to believe that respondent violated the nurse practice act and referred this matter for further proceedings.
4. 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(a) is established.

AGREED FINDINGS OF FACT

5. Respondent reported herself to the Board on 7/8/200 and voluntarily entered the [REDACTED] Respondent admits that while employed at Mercy Regional Health Center, Manhattan, KS. she diverted Demerol from her employer during the 11 pm to 7 am shift on 7/4/03. [REDACTED] The employer also reported that she took Morphine and syringes. Licensee failed to document pain assessments for two patients that would have corresponded with the controlled substances she allegedly administered to them,

and failed to document in either the nurse notes or MAR the administration of these medications. She practiced beyond the scope of nursing when she documented Demerol administration to a patient every two hours instead of the ordered every 6 hours prn. On 6/13/03 she signed out 8 does of morphine for one patient on the third shift, failed to document any administrations; the drug had been discontinued earlier in the day.

6. On 7/4/03 on the third shift she failed to administer a pain medication to a patient despite the patient's request.

7.



8. Licensee has failed to reveal a 1993 misdemeanor conviction for consumption of alcohol in a public place and a 1994 conviction for failure to appear. These convictions were never revealed on any nursing applications with the board.

CONCLUSIONS OF LAW

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

(a) K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n);

(b) K.S.A. 65 1120(a)(4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol;

(c) K.S.A. 65-1120 (a) (3) to have committed an act of professional incompetency as defined in subsection (e); *Professional incompetency defined.* As used in this section, "professional incompetency" means: (1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;

(d) K.S.A. 65 – 1120(a)(6), unprofessional conduct by failure to take appropriate action or follow policy and procedures K.A.R. 60-3-110(c);

(e) K.S.A. 65 – 1120(a)(6), unprofessional conduct by inaccurately recording, falsifying, or altering any record of a patient or agency or of the board; K.A.R. 60-3-110(d);

(f) K.S.A. 65-1120 (a)(1) To be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing;

(g) K.S.A. 65-1120 (6) to be guilty of unprofessional conduct as defined by rules and regulations of the board; K.A.R. 60-3-110. Unprofessional conduct. Any of the following shall constitute unprofessional conduct by (a) Performing acts beyond the authorized scope of the level of nursing for which the individual is licensed.

(h) K.S.A. 65-1120 (a) (3) to have committed an act of professional incompetency as defined in subsection (e); *Professional incompetency defined.* As used in this section, "professional incompetency" means: (1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;

(i) 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 unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120 no license, certificate of qualification or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto.

10. 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.

11. 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(a) is established.

12. Respondent violated the Kansas Nurse Practice Act as described above.

POLICY STATEMENT

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

DISPOSITION

14. 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(b) and K.S.A.77-501 *et seq.* and to judicial review.

15. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the license card will be issued with an "L"; the license will be **limited** and respondent will be allowed to practice under the following conditions:

a. Licensee shall continue to participate in and complete the ecommendations and requirements of the **Kansas Nurses Assistance Program (KNAP)**; sign releases of information necessary for KNAP to evaluate and monitor licensee and for KNAP to report information to the board. If Licensee leaves the state, she will associate with another support system similar to KNAP. If she returns to the state, she agrees to re-enter the KNAP program.

b. Licensee shall send a **money order for \$70** to the Board upon entering into this agreement.

c. Licensee will **not** work any evening or night shifts for **one year**.

d. Licensee is responsible for the costs related to satisfying these conditions.

16. If licensee does not meet these requirements, petitioner will file a motion to lift the stay and may request additional sanctions against licensee's license or application for a license. Licensee would be sent notice of such action and would be entitled to a hearing as to whether he/she had complied with this agreement, but he/ she could not contest the established violation(s).

17. Licensee agrees to notify the Legal Division of any changes in his/her address and phone number as well as all nursing employment terminations or employer changes or additions. All such notifications shall be made within fourteen (14) days of such a change.

18. Licensee shall immediately notify the Legal Division of any use of alcohol, or controlled substances, or any violation of this Consent Agreement and Final Order.

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

20. The parties understand and acknowledge that this is a disciplinary action; it will be in the newsletter and on the website. The original of this agreement shall be placed in the Agency Record and is a public record.

21. By signing this Consent Agreement, respondent acknowledges that he/she has read and understands the entire document, and agrees to be bound by its terms. This Consent Agreement constitutes the entire agreement of the parties and may not be modified except in writing and approved by all parties.

IN CONCLUSION

22. This case will be inactivated and a card with no limitation will be issued when:

- a) KNAP does **not issue a letter of noncompliance** through one year of agreement.
- b) cost of **\$70** is paid.
- c) No further violations of the Nurse Practice Act are reported.

Once all of above are met at end of one year of compliance, **estimated to end in April 2005**, the licensee may request that a new card be issued by sending the request in writing and return the license card with the "L" to the Board, if all requirements are met a new card will be issued with no restrictions.

IN WITNESS WHEREOF, the parties hereto execute this CONSENT TO LIMIT LICENSE AND FINAL ORDER.

Elizabeth Finch
Licensee
2768 9th Rd.
Barnes, KS 66933

State of Kansas)

County of Washington)

SS

Subscribed to before me by Elizabeth Finch on April 23, 2004.



Signature of Notary Public

Betty Wright, #14785
Assistant Attorney General
900 SW Jackson, Suite 1051
Topeka, Kansas 66612-1230
(785) 296-4325

IT IS SO ORDERED.

Terry Beck
Hearing Officer

CERTIFICATE OF SERVICE

On the 3rd day of May, 2004, I caused a copy of this document to be mailed, postage prepaid, to :

Elizabeth Finch
2768 9th Rd.
Barnes, KS 66933

Betty Wright, Assistant Attorney General