

FILED
OCT 13 2006
KSBN

BEFORE THE KANSAS STATE BOARD OF NURSING
Landon State Office Building, 900 S.W. Jackson #1051
Topeka, Kansas 66612-1230

IN THE MATTER OF
VICKIE D. RUSSELL
License No. 13-074755-081

Case No. 04-881-5

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 10th day of October, 2006, the Kansas State Board of Nursing, represented by Assistant Attorney General, Mark A. Knight, and the Licensee, Vickie D. Russell, represented by Counsel, David W. Steed, 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. Licensee is licensed to practice nursing in Kansas through 8/31/2007. The Kansas State Board of Nursing (Board) has jurisdiction over the Licensee and the subject matter of this action.
 2. Licensee's address of record is 8201 E. Harry St. #904, Wichita, KS 67207.
 3. The Licensee understands that pursuant to K.S.A. 77-515, Licensee may be represented at Licensee's expense by, an attorney during these proceedings.
 4. After an investigation, the Board's investigative committee found reasonable grounds to believe that the Licensee 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(a) is established.
-

6. (a) On or about 11/6/2003 Licensee self-referred to the [REDACTED]. The referral to [REDACTED] was precipitated by difficulties Licensee was having at her place of employment, Via Christi Regional Medical Center, Wichita, Kansas. Via Christi Staff reported that during a meeting that took place on or about 11/6/2003 the Licensee had an odor of alcohol on her breath. The meeting was scheduled to address Licensee's tardiness, absences, and a report of Licensee having alcohol odor on Licensee's breath.

(b) [REDACTED] was allowed to return to work at Via Christi. On or about 12/18/2003, Licensee signed a [REDACTED] contract which prohibited [REDACTED].

(c) On or about 7/18/2004, Licensee was terminated from Via Christi for excessive tardiness and excessive absenteeism.

(d) On or about 10/11/2004, Licensee became employed at Sandpiper Bay Health and Retirement Center, Wichita, KS. While at Sandpiper Bay Licensee received a written warning on or about 1/31/2005 for failing to process a doctor's order. Licensee received a written warning on or about 3/5/2005 for leaving an at risk resident on the toilet (unattended), resulting in the resident's fall. Licensee received a written warning on or about 7/12/2005 for giving the wrong medication dose to a resident. Licensee received a written warning on or about 8/2/2005 for failing to implement interventions for a resident at risk for falling. Licensee received counseling on or about 8/29/2005 for poor staff management and lack of communication. Licensee received counseling on or about 9/1/2005 regarding a positive [REDACTED] UDS from 8/22/05 for alcohol. [REDACTED] recommended that Licensee cease nursing practice and [REDACTED]. Sandpiper Bay placed Licensee on a 30 day leave of absence.

(e) [REDACTED] reports that after entering [REDACTED] Licensee successfully completed her [REDACTED].

██████████ On or about 12/9/2004 Licensee tested positive for alcohol. Licensee advised she attended a friend's birthday party and consumed alcohol while there. ██████████ required Licensee to cease nursing practice immediately and have a CD re-evaluation. The ██████████

██████████ Licensee advised that prior to the 12/9/2004 UDS, she had been drinking alcohol once a month for ten (10) months. ██████████ allowed the Licensee to return to work. Due to the relapse, Licensee's ██████████ time was extended to 12/9/2007. ██████████

██████████ On or about 8/22/2005 Licensee's UDS was positive for alcohol. Licensee was directed to immediately cease nursing practice and ██████████ Following the ██████████ Licensee was then referred to ██████████

(f) On or about 12/9/2005 Licensee reported to a KSBN investigator that she knowingly violated he ██████████ consuming alcohol on in December of 2004 and August of 2005. Licensee advised that during September of 2005 she ██████████

7. The above incidents are violations of the nurse practice act. The Licensee agrees that the board is prepared to prove that Licensee has violated:

K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(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;

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

K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (c), failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient;

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. Licensee 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. Licensee 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(a) is established.

10. Licensee 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)(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.

Count 2: K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol.

Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (c), failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient.

Count 4: 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(b) and K.S.A.77-501 et seq. and to judicial review.

13. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the **Licensee's license to practice nursing in Kansas will be suspended and the suspension will continue through any renewal periods or any periods of inactive status. The license will be suspended until Licensee successfully completes the following:**

(a) **Licensee 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.**

(b) **Licensee will participate in and complete the reasonable recommendations 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. Licensee will be deemed to have completed the KNAP program when KNAP issues written notification that licensee has completed the program. Noncompliance with KNAP is a violation of this agreement. **If Licensee voluntarily leave, the practice of nursing or becomes inactive noncompliance with KNAP will not be a violation of this agreement. If Licensee voluntarily leaves the practice of nursing or becomes inactive, then returns to the practice of nursing, noncompliance with KNAP will be a violation of this agreement.**

(c) **Licensee may request a Stay of the suspension of her Kansas Nursing license when the following conditions have been met:**

1. Licensee completes three (3) consecutive months of full compliance with the KNAP program.

2. KNAP provides to the Kansas State Board of Nursing written notification that the Licensee has completed three (3) consecutive months of full compliance with the KNAP program.

3. Licensee is in compliance with all other conditions and requirements of this agreement.

4. Licensee has met all statutory requirements for licensure as a nurse in Kansas.

(d) **Licensee must submit to random drug screens as determined or selected by the Board or by KNAP.** The costs of the drug screens will be paid by the Licensee.

Licensee agrees that a Positive Drug Screen is a violation of this agreement.

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

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

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

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

(i) **Licensee 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) **Licensee will Submit Reports from the Licensee'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 Licensee securing employment that utilizes Licensee's nursing license, Licensee is to mail to

the Kansas State Board of Nursing a statement indicating that Licensee has not yet secured employment which utilizes Licensee's nursing license. This statement is due by the 10th day of each month beginning the next month after signing this consent agreement.

Once Licensee is employed in a position that utilizes Licensee's nursing license, or if Licensee is currently employed in a position that utilizes Licensee's nursing license, a nursing performance report is due by the 10th day of every third month until Licensee has caused the submission of four (4) separate nursing performance reports. The report shall be prepared and signed by Licensee's immediate supervisor or by an R.N. who evaluates Licensee'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. Licensee's name, address, telephone number, license number.
5. A short explanation of the Licensee'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) Licensee agrees to notify the Legal Division of any changes in address and phone number as well as all employment terminations or employer changes or additions. All such notifications shall be made in writing within fourteen (14) days of such a change.

(l) Licensee is responsible for the costs related to satisfying these conditions and requirements.

(m) **If Licensee's Kansas nursing license is placed on inactive status then Licensee is not required to follow the conditions set forth in paragraphs 13.(b), 13.(d), 13.(e), 13.(j) and 13.(k) of this agreement during the period of inactive status.**

14. If Licensee does not meet these requirements, then Kansas State Board of Nursing 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 Licensee had complied with this agreement, but Licensee could not contest the violations listed in this agreement.

15. 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.

16. This agreement is a contract entered into by the parties to resolve a revocation case. The original of this agreement shall be placed in the Agency Record and is a public record.

17. By signing this Consent Agreement, Licensee acknowledges that Licensee 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.

18. After successful completion of all of the requirements of this Consent Agreement by the Licensee, the Consent Agreement will be satisfied and the case will be inactivated.

19. 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 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.

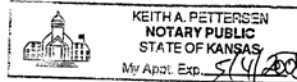
IN WITNESS WHEREOF, the parties hereto execute this CONSENT AGREEMENT
AND FINAL ORDER.

IT IS SO ORDERED.

Vickie D. Russell
Licensee
8201 E. Harry St. #904
Wichita, KS 67207

Vickie D. Russell must sign before a Notary Public.

State of Kansas, County of Sedgwick ss.



SUBSCRIBED AND SWORN TO before, me by Vickie D. Russell

on this 15th day of September, 2006.

Signature of Notary Public

My Commission Expires

5/4/2008
(Notary Public Seal)

David W. Steed, #13009
Counsel for Licensee
KLEENDA, MITCHELL, AUSTERMAN & ZUERCHER
1600 Epic Center, 301 N. Main
Wichita, KS 67202

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

Terry E. Beck, Hearing Officer

CERTIFICATE OF SERVICE

On the 13th day of October, 2006, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Vickie D. Russell
8201 E. Harry St. #904
Wichita, KS 67207

David W. Steed, #13009
Counsel for Licensee
KLEND, MITCHELL, AUSTERMAN & ZUERCHER
1600 Epic Center, 301 N. Main
Wichita, KS 67202

Mark A. Knight, #12183
Assistant Attorney General