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**BEFORE THE KANSAS STATE BOARD OF NURSING**

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

FILED

JUN 10 2016

KSBN

**IN THE MATTER OF  
ALICIA ANN BAUER**

OAH no. 15BN0031

License No. 13-101525-102  
Case Nos. 14-133-4 AND 14-236-6

FILED OAH

8 JUN '16 AM 11:00

**INITIAL AGREED ORDER**

NOW ON THIS 8th day of June, 2016, the Kansas State Board of Nursing, represented by Assistant Attorney General, Bryce D. Benedict, and the Respondent, Alicia Bauer, by and through her counsel, G. Andrew Marino, hereby enter into this agreement and proffer evidence and the hearing officer adopts those recommendations and makes the following findings of fact and orders:

**FINDINGS OF FACT**

1. Respondent is licensed to practice nursing in Kansas. The Board has jurisdiction over the Respondent and the subject matter of the action.
2. Respondent's address of record is 55 3800<sup>TH</sup> Street Savonburg, Kansas 66772
3. The case was submitted to the Investigative Committee on the 17th of June 2014.
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 the 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. 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 the agreement instead of proceeding to such a hearing.

7. The Respondent stipulates to the following facts and violations:

#### STATEMENT OF FACTS

- (a) While respondent was employed by Moran Manor, respondent violated a physician's order by deliberately feeding an NPO patient.
- (b) The respondent violated the confidentiality of this same patient by discussing his medical information with unauthorized individuals.
- (c) These incidents occurred on or about the 3<sup>rd</sup> day of January, 2014.
- (d) Respondent was arrested and charged with a non-person Felony and a non-person misdemeanor involving narcotics.
- (e) Respondent diverted narcotics from her employer Moran Manor.
- (f) These incidents occurred on or about the 12<sup>th</sup> day of January, 2014.
- (g) Respondent stipulated to the facts alleged in the Complaint in case No. 2014CR27 in the Allen County, Kansas District Court regarding use of a Cellular phone for Drug Transaction, in violation on K.S.A. 21-5707(b), a severity level 8 Drug Felony.

#### STATEMENT OF VIOLATIONS

Respondent has violated the Kansas Nurse Practice Act as follows:

Count 1: K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n).

Count 2: K.S.A. 65 1120(a)(1) unprofessional conduct by fraud or deceit in practicing nursing.

Count 3: K.S.A. 65-1120(a)(4) unable to practice with skill and safety due to current abuse of drugs or alcohol.

Count 4: K.S.A. 65-1120(a)(3) unprofessional conduct in disclosing patient information KAR 60-3-110 (j) in violation of confidentiality of information or knowledge concerning any patient.

**POLICY STATEMENT**

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

**DISPOSITION**

9. By entering into the Initial Agreed Order and consenting to the entry of the Initial 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.

10. Based upon the agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the Initial Agreed Order will continue through any renewal periods of respondent's nursing license until respondent completes each of the conditions and requirements of the 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 the Initial Agreed Order remaining in effect until Respondent completes each of the conditions and requirements of the agreement.

11. Upon the agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the Respondent's license to practice nursing in Kansas will be suspended for six (6) months and this suspension will be stayed providing she is in compliance with KNAP and with the terms and conditions of this agreement.

12. 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 will enter into the Kansas Nurses Assistance Program (KNAP) and follow the the recommendations and requirements. There must be a determination of respondent's safety to practice nursing. Respondent shall sign releases of information

necessary for KNAP to evaluate for substance abuse and to monitor Respondent, if necessary and for KNAP to report information to the Board, Attorney General's office, and Office of Administrative Hearings.

(b) Respondent must submit to random drug screens as determined or selected by KNAP. The costs of the drug screens will be paid by the respondent. Respondent agrees that a Positive Drug Screen is a violation of the agreement.

(c) The respondent shall immediately inform all medical or health related employers and prospective employers of the Initial Agreed Order and not work in agency or unsupervised positions.

(d) As long as the respondent is employed by Elm Haven West, (1) a supervising nurse, if not on-site, must be on-call and able to arrive at the facility within 10 (ten) minutes of any time that the respondent is working; and (2) a supervising nurse shall randomly check and approve via co-signature 5 (five) resident/patient charts, including medication records, per week.

(e) If the respondent works for any other employer during the term of this order, "supervised practice" means that a licensed nurse supervisor must be on site with the physical ability to spot check work.

For purposes of this subsection and the preceding subsection (d) the supervising nurse must be a RN.

(f) Respondent will submit quarterly 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: on the 10<sup>th</sup> day of the months of January, April, July and October, to begin with the first such month occurring after the effective date of this Order, and continuing until eight (8) reports have been submitted. These reports are performance reports *while in a position that requires a nursing license*.

*The quarterly reports must be signed by the respondent's supervisor, and must come directly from the employer; reports forwarded from the respondent are not acceptable.*

(g) Respondent shall send a money order for \$100.00 to the Board upon entering into the agreement to pay the cost of the action.

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

(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 the agreement. Traffic infractions shall not be considered violations of the law.

(j) The respondent will obtain within ninety days, and provide documentation to the Legal Department, Kansas State Board of Nursing, completion of (1) the two hour *The Nurse Practice Act: An Overview for Nurses* home study CNE available online through the Via Christi Regional Medical Center:

<https://www.viachristi.org/health-professionals/nursingallied-health/cne-wichita>,

AND (2) an additional 3-6 Contact Hours on Patient Confidentiality/HIPPA, and 3-6 Contact hours on Ethics.

It is the responsibility of the Licensee to ensure that hours required to be taken within a specified topic or topics qualify as meeting the definition of that topic. If the assigned topic is not clearly stated in the title of the course, you must review the course objections. The course objectives must clearly state the topic was discussed at length within the course. If there is a question whether any CNE qualifies the Licensee should contact the Board of Nursing.

Any CNE required to be completed to satisfy this agreement WILL NOT apply to the 30 CNE hours required for the next registration period.

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

13. Respondent acknowledges and agrees that Respondent is responsible for the costs related to satisfying the conditions and requirements of the Initial Agreed Order. Respondent further acknowledges and agrees that to provide the Board with false information regarding compliance with the Initial Agreed Order is a violation of the Initial Agreed Order.

14. 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 the Initial Agreed Order, but Respondent could not contest the violations listed in the agreement.

15. All parties understand that if an action based on failure to meet the conditions and requirements of the Initial Agreed Order 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 her or her attorney, if any, in reference to the action.

16. Respondent acknowledges and agrees that if any action based on failure to meet the conditions and requirements of the Initial Agreed Order is filed during the term of the Initial Agreed Order, or within 30 days after the expiration date, the conditions of the Initial Agreed Order shall continue in effect until the Board or a hearing/presiding officer designated pursuant to K.S.A. 77-514 and K.S.A. 77-526, rules on the action.

17. Respondent acknowledges and agrees that upon a finding of Respondent not complying with any of the conditions or requirements of the Initial Agreed Order the stay on the Suspension of Respondent's license to practice nursing in the State of Kansas will be removed from the date of said finding. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension. Respondent acknowledges and agrees that all

conditions and requirements of the Initial Agreed Order remain in effect during the period of suspension.

18. Respondent acknowledges and agrees that the Suspension will be extended due to a finding of non-compliance with any of the conditions or requirements of the Initial Agreed Order, the Suspension will not be Stayed until the Respondent has, following the prescribed time period of suspension, provided written verification to the Board that Respondent is in compliance and has remained in compliance during the period of suspension, with all conditions and requirements of the Initial Agreed Order. Upon the Respondent providing said written verification the suspension will be stayed.

19. The agreement is a discipline and must be reported on any future renewal or reinstatement applications. The agreement is a contract entered into by the parties to resolve an investigative case. The original of the agreement shall be placed in the Agency Record. The Agreement is a public record and will be reported to national disciplinary data banks.

20. After successful completion of all of the conditions and requirements of the Initial Agreed Order by the respondent, the Initial Agreed Order will be satisfied and the case will be inactivated.

21. By signing the Initial Agreed Order, Respondent acknowledges that Respondent has read and understands the entire document, and agrees to be bound by its terms. The Initial Agreed Order constitute the entire agreement of the parties and may not be modified except in writing and approved by all parties. The effective date of the Initial Agreed Order is the date shown on the certificate of service.

22. 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.

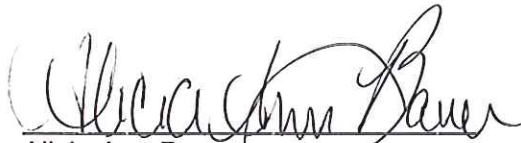
23. Disciplinary counsel shall serve a copy of this Order upon respondent counsel.

IT IS SO ORDERED.



Sandra Sharon, Presiding Officer  
Administrative Law Judge

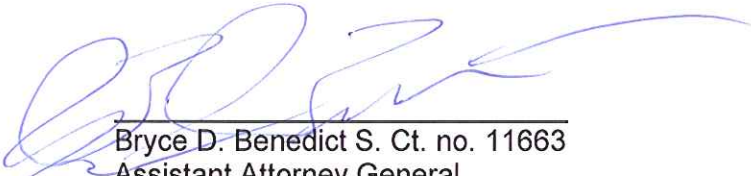
APPROVED BY:



Alicia Ann Bauer  
55 3800<sup>th</sup> Street  
Savonburg, Kansas 66772-4042  
Respondent



G. Andrew Marino  
GILLILAND & HAYES  
301 N. Main  
Wichita, Kansas 67202  
Attorney for Respondent



Bryce D. Benedict S. Ct. no. 11663  
Assistant Attorney General  
Kansas State Board of Nursing  
Landon State Office Building  
900 SW Jackson #1051  
Topeka, KS 66612

NOTICE

Pursuant to K.S.A. 77-527, either party may request a review of the final order by filing a petition for reconsideration with the Kansas State Board of Nursing. A petition for reconsideration must be filed with 15 days from the date the final order was served. Failure to timely request a reconsideration by the Kansas State Board of Nursing may preclude further judicial review. The petition for reconsideration shall be mailed or personally delivered to: Mary Blubaugh, Executive Director, Board of Nursing, Landon State Office Building, Suite 1051, 900 SW Jackson, Topeka, KS 66612-1230.

Pursuant to K.S.A. 77-531, if the final order is served by mail, three days are added to the time limits set out above.

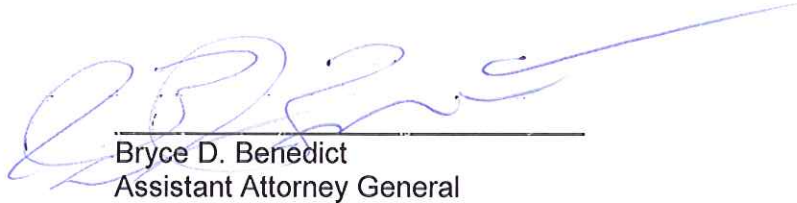


Pursuant to K.S.A. 77-530, if a request for reconsideration is not requested in the time and manner stated above, the initial order shall become effective as a final order 30 days after service.

CERTIFICATE OF SERVICE

On the 10<sup>th</sup> day of June, 2016, I mailed a copy of the INITIAL AGREED ORDER to:

G. Andrew Marino  
GILLILAND & HAYES  
301 N. Main  
Wichita, Kansas 67202



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Bryce D. Benedict  
Assistant Attorney General