

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

APR 23 2009

**IN THE MATTER OF
EDWARD E. WYANT
License No. 13-102399-071**

KSBN

Case No. 07-396-0, 08-522-0

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 24th day of April, 2009, the Kansas State Board of Nursing, represented by Assistant Attorney General, Mark A. Knight, and the Respondent, Edward E. Wyant, 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 is licensed to practice nursing in Kansas through 7/31/2009. The Kansas State Board of Nursing (KSBN) has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent's address of record is 1113 E. Treasure Rd., Pearce, AZ 85625.
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 12/9/1985, the Department of the Air Force issued General Court-Martial Order number 2. The order states Respondent plead guilty and was found guilty of Article 112a: Distribute Methamphetamines, Distribute Marijuana, Wrongfully Possess Marijuana, Wrongfully use Methamphetamines.

(b) On or about 12/29/1993, Respondent was convicted of Driving While Intoxicated, a misdemeanor, in the Associate Circuit Court of Vernon County, Missouri, case number CR893-572M.

(c) On or about 2/23/1994, Respondent was convicted of Driving While Suspended, a misdemeanor, in the Associate Circuit Court of Vernon County, Missouri, case number CR893-675M.

(d) On or about 5/20/1996, Respondent was convicted of Possession of Firearm While Intoxicated, a misdemeanor, in the Mesa County Court, Mesa County, Colorado, case number 1996M001143.

(e) On or about 10/15/1996, Respondent was convicted of Violation of a Restraining Order, a misdemeanor, in the Mesa County Court, Mesa County, Colorado, case number 1996M002489.

(f) On or about 6/30/1999, Respondent was convicted of Domestic Battery, a misdemeanor, in the Municipal Court of Carson City, Nevada, case number V-17599.

(g) On or about 4/22/2004, Respondent was convicted of Driving While License was Revoked, a misdemeanor, in the Associate Circuit Court of Dade County, Missouri, case number CR-695-1456M.

(h) On or about 4/23/2007, the KSBN received Respondent's initial licensure application to practice nursing in the state of Kansas. On the application was the question "Have you ever been convicted of a misdemeanor?" Respondent answered "Yes" to the question and provided Fontana, California and Carson City, Nevada.

(i) On or about 8/2/2007, the KSBN approved Respondent's licensure upon his passing the NCLEX.

(j) On or about 5/21/2008, the Arizona State Board of Nursing (ASBN) issued a disciplinary order regarding Respondent's license to practice nursing in the state of Arizona. Respondent's Arizona discipline was based in part on Respondent's failure to provide the ASBN with all requested criminal history information during the licensing process.

(k) On or about 9/8/2008, the KSBN received a written statement from Respondent. Respondent stated he did not disclose all of his criminal conviction history to the KSBN in his initial application due to fear of rejection.

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)(1), to be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing; K.S.A. 65-1120(a)(8), to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country; 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.

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)(1), to be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing.

Count 2: K.S.A. 65-1120(a)(8), to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country.

Count 3: 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.

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. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that this Consent Agreement 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 agreement.

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

15. Based upon this 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 is 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.

16. 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. 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 agrees to not practice nursing in the state of Kansas without first obtaining authorization from the Kansas State Board of Nursing.**

(c) **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.

(d) If and when Respondent is employed within the state of Kansas in a position that utilizes his Kansas nursing license, 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:

A nursing performance report is due by the 10th day of every third Month until respondent has caused the submission of six (6) 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.

(e) Respondent shall immediately notify the Legal Division of 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.

(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 must submit to random drug screens as determined or selected by any state Board of Nursing or by any peer assistance program or any impaired provider program.** 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.

(k) **The Respondent will complete three (3) hours of Continuing Nurses Education (CNE) on the topic of "Ethics."** Respondent is to submit the original certificates for proof of the completion of the hours within 30 days of this agreement. The Respondent may not use these hours to meet the CNE requirements of any renewal period.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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 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.

22. 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.

23. 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.

24. 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. This Agreement is a public record and will be reported to national disciplinary data banks.

25. 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.

26. 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. The effective date of this Consent Agreement and Final Order is the date shown on the certificate of service.

27. 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.

Edward E. Wyant
Respondent
1113 E. Treasure Rd.
Pearce, AZ 85625



Edward E. Wyant must sign before a Notary Public.





Mark A. Knight, #12183 /
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

Sandra L. Sharon, Presiding Officer

CERTIFICATE OF SERVICE

On the 28th day of April, 2009, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Edward E. Wyant
1113 E. Treasure Rd.
Pearce, AZ 85625

Mark A. Knight, #12183
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
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