

BEFORE THE KANSAS STATE BOARD OF NURSING

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

**IN THE MATTER OF
ABIODUN M. AFODUNRINBI
License No. 13-107826-121**

Case No. 10-874-5

FILED

FEB - 8 2012

KSBN**FINAL ORDER AND CONSENT AGREEMENT**

NOW ON THIS 8th day of February, 2012, the Kansas State Board of Nursing, represented by Assistant Attorney General, Alma A. Heckler, and the Respondent, Abiodun M. Afodunrinbi, represented by Thomas E. Knutzen, Attorney at Law, 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 12/31/2013. 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 8406 E. Harry, #804, Wichita, KS 67207.
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. Respondent acknowledges that this agreement will be an open record pursuant to the Kansas Open Records Act, K.S.A 45-215 et seq., and may be published or disseminated notwithstanding any state or federal law otherwise restricting public access to, or dissemination of, any personal or health care information, or any information or records of substance abuse evaluation and/or treatment contained herein.

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) A petition was filed June 29, 2011 to take disciplinary action against the Respondent's license.

(b) Respondent was employed by Via Christi Rehabilitation Center from 8/4/2009 to 3/23/2010. Via Christi Human Resources records show respondent terminated his employment in lieu of being terminated by Via Christi. Final day was 3/23/2010, and he is listed as not eligible for rehire by Via Christi.

(c) On 9/30/2009 Respondent missed two doses of Potassium Chloride for the same patient in the same day. On the same day Respondent missed one of two doses of Potassium Chloride to be delivered to a second patient.

(d) On 10/07/2009 respondent was responsible for tube feeding of a quadriplegic patient. Respondent performed the tube feeding with the patient lying flat in his bed, against safety procedures due to threat of aspiration—especially in a quadriplegic patient. Respondent also failed to check the supra pubic catheter inserted into patient. The line was checked at shift change by oncoming staff and the line was found to be kinked. When the line was opened up a significant amount of fluid drained from the patient. Nursing staff noted the amount of urine drained was a dangerous amount for this patient due to his condition.

(e) On 12/8/2009 Respondent was written up by supervisors [REDACTED] and [REDACTED]

[REDACTED] Respondent verified an incorrect order in Via Christi's verification computer system

without checking it the doctor's orders. Respondent is required to check any information and verify it is consistent with the doctor's orders. In this instance it resulted in a patient receiving 1000 mg. less Niacin per day than he was prescribed.

(f) On 2/8/2010 Respondent was ordered to give Normal Saline, to obtain a stat UA, and to obtain an orthostatic Blood Pressure. Respondent began the normal saline at 2300, but violated hospital verification protocols by doing so without scanning the saline or the patient's arm band. Respondent, when informed of his mistakes, used the hospital's computers to verify without checking against the doctor's orders in the chart.

(g) On 2/15/2010 respondent made entries in the hospital computer that he changed five wound dressings for a patient. Respondent listed that he had changed the dressings at 1555, when in reality patient was in dialysis from 1430 to 1830. The patient was examined on 2/16/2010 the dressings found on the patient had a date and time in writing showing the dressings were last changed the morning of 2/15/2010 by a different nurse. There was no evidence that the respondent actually changed the dressings.

(h) On 2/9/2010, respondent was responsible for administering pain medications to a patient. Patient began asking at 1600 hours for pain medications and asked several times thereafter, but respondent did not come in to see patient until 2000 or 2100 hours. While in the room the respondent roughly tore the dressings off of the patient's back. The patient's reported the respondent's treatment to other staff.

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:

Count 1: K.S.A.65-1120(a)(6), to be guilty of unprofessional conduct as defined by the rules and regulations of the board.

Count 2: 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 3: K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(2), repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board.

Count 4: 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)(6), to be guilty of unprofessional conduct as defined by the rules and regulations of the board.

Count 2: 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 3: K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(2), repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board.

Count 4: 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 Final Order and 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 Final Order and Consent Agreement 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 current license card (if he has one) to the Board with this Final Order and Consent Agreement. Respondent shall receive a license which will show an "S" placed in the status code portion of the license information to indicate that the license is suspended with a Stay. The license status will, also, show an "L" indicating the limitations on the practice.

(b) Respondent shall complete a board approved nursing refresher course with clinicals by July 31, 2012 and provide proof of completion to the Board within one week of his completion of the refresher course. License may continue to work as a nurse while taking the clinicals but he must inform any employers of the existence of this Final Order and Consent Agreement. Respondent may not use any of these hours to meet the CNE requirements of any renewal period. If the Respondent fails to complete the refresher course by July 31, 2012, the Board shall consider his failure a violation of this agreement.

(c) Respondent shall work only in nursing positions where he is supervised by an RN at all times. Respondent may continue to work at Medicalodges Wichita, 2280 South Minneapolis Street, Wichita, KS 67211, but if he leaves that position for any reason, he must not accept employment at any home health agency, private duty or a care home or nursing

home for the duration of this agreement. Respondent cannot work unsupervised. The Board may evaluate the requirements and limitations on Respondent's practice contained in this item, based on the Respondent's compliance with all of the conditions of this Final Order and Consent Agreement.

(d) 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 Final Order and Consent Agreement.

Once respondent is employed in a position that utilizes his 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 first report shall be due the 10th day of the next month after signing this Final Order and Consent Agreement.

The report shall be prepared and signed by respondent's immediate supervisor and 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.

Any violations of company policy or standards of care and violations of the Kansas Nurse Practice Act by the Respondent must be reported by the facility immediately to the Kansas Board of Nursing.

- (e) The respondent shall immediately inform all employers and prospective employers of this Consent Agreement and the Final Order.
 - (f) Respondent shall send a money order for \$70 to the Board upon entering into this agreement to pay the cost of this action.
 - (g) Respondent shall not violate the Kansas Nurse Practice Act during the duration of this agreement.
 - (h) 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.
 - (i) 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.
17. Respondent acknowledges and agrees that Respondent is responsible for the costs related to satisfying the conditions and requirements of this Final Order and 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 Final Order and 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 Final Order and 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 if any action based on failure to meet the conditions and requirements of this Consent Agreement is filed during the term of this Final Order and Consent Agreement, or within 30 days after the expiration date, the conditions of this Final Order and Consent Agreement 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.

21. Respondent acknowledges and agrees that upon a first finding of Respondent not complying with any of 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. Respondent acknowledges and agrees that all conditions and requirements of this Final Order and Consent Agreement remain in effect during the period of suspension.

22. Respondent acknowledges and agrees that upon a second or subsequent finding of Respondent not complying with any of 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.

Respondent acknowledges and agrees that all conditions and requirements of this Consent Agreement remain in effect 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 any of the conditions or requirements of 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 and has remained in compliance during the period of suspension, 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. This Agreement is a public record and will be reported to national disciplinary data banks.

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 Final Order and Consent Agreement, Respondent acknowledges that Respondent has read and understands the entire document, and agrees to be bound by its terms. This Final Order and Consent Agreement 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 Final Order and Consent Agreement is the date shown on the certificate of service.

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 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 FINAL ORDER AND CONSENT AGREEMENT.

IT IS SO ORDERED.

[REDACTED]
Abiodun M. Afodunrinbi
Respondent
8406 E. Harry #804
Wichita, KS 67207

Abiodun M. Afodunrinbi must sign before a Notary Public.



*State of Kansas
County of Sedgewick
January 23, 2012*

[REDACTED]
Thomas E. Knutzen, #24471
100 Washington Street, Suite D
Oskaloosa, Kansas 66066
Counsel for Respondent

[REDACTED]
Alma A. Heckler, #11555
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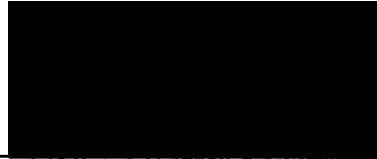
[REDACTED]
Sandra L. Sharon, Presiding Officer

CERTIFICATE OF SERVICE

On the 3rd day of February, 2012, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Abiodun M. Afodunrinbi
8406 E. Harry #804
Wichita, KS 67207

Thomas E. Knutzen, Counsel for Respondent
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