

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

FILED

JAN 14 2016

IN THE MATTER OF ZACHARIAS PAUL PHELPS-ROPER

KSBN

License No. 13-123166-021

Case No. 15-1679-8

INITIAL AGREED ORDER

NOW ON THE 14th day of January, 2016, THE ABOVE MATTER COMES BEFORE THE Kansas State Board of Nursing (Board) pursuant to authority granted to the Board by K.S.A. 65-1120. The Board hereby proposed to find facts and take emergency proceeding pursuant to K.S.A. 77-536, and in support of this request states that:

FINDINGS OF FACT

1. Respondent, Zacharias Paul Phelps-Roper, is licensed to practice nursing in Kansas. The Board has jurisdiction over the Licensee and the subject matter of the action.
2. Respondent's address of record is 2130 SW Fillmore #40 Topeka, Kansas 66611
3. The case was to be submitted to the Emergency Hearing on the 21st of January, 2016.
4. Review of the investigation and other information gathered by the Board revealed the following information upon which the action is based.
5. 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.
6. 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.

7. A Summary order may be to revoke licensee's license as disciplinary action against the licensee's license.

8. The above incidents are violations of the nurse practice act. The Respondent agrees that the board is prepared to prove that respondent has violated the act and stipulates to the allegations alleged in the Petition.

Respondent 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)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

9. The facts below are common to all counts:

On or about 1st day of August 2015, Respondent was employed as a nurse at by Corizon Health which contracts with the Kansas Department of Corrections for the provision of inmate healthcare at each of the DOC's facility.

(b) Licensee was employed at the Topeka Correctional Facility.

(c) RDON was notified by co workers that they had concerns about licensee's mental health.

(d) Due to licensee's erratic behavior that appeared to be worsening, the decision was made to suspend licensee until they could determine what steps to take.

(e) On August 3rd, 2015, at around noon, information was received that licensee tried to commit suicide by jumping off of a bridge approximately six blocks from the facility into a river.

(f) Licensee only suffered minor injuries due to the fact that others were present during the attempt and came to his aid.

(g) A suicide note was found in his car confirming the suicide.

(h) Licensee's employment was terminated with Corizon Health.

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 the agreement instead of proceeding to such a hearing.

CONCLUSIONS OF LAW

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 is established.

12. Respondent 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)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

POLICY STATEMENT

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

DISPOSITION

14. 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.

15. 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 of the Board will suspend license until licensee is ready to resume the safe practice of nursing and 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.

16. Based 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 will be immediately Temporarily suspended. Upon returning to nursing, Respondent will be evaluated for Mental Health issues and comply with its terms and conditions and will enter into a three year program with KNAP and with the terms and conditions of this agreement when he returns to nursing.

17. 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 when he returns to nursing. There must be a determination of licensee's safety to practice nursing and a evaluation will be obtained. Respondent shall sign releases of information necessary for KNAP to evaluate for impairment and to monitor Respondent and for KNAP to report information to the Board, Attorney General's office, and Office of Administrative Hearings. The respondent's license to practice nursing in the state of Kansas is suspended on a temporary basis pending the outcome of mental health evaluation, counseling and treatment as deemed necessary.

(b) Once the respondent submits to Mental Health Evaluations from a licensed Psychologist or Psychiatrist, and the Kansas State Board of Nursing receives written verification that the respondent is safe to practice nursing, the Board will consider a motion for a stay of the suspension.

(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 when he returns to nursing.

(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 the schedule will be established upon his return to nursing

(d) Respondent shall send a money order for \$100 to the Board upon entering into the agreement to pay the cost of the action.

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

(f) 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.

(g) Upon returning to nursing, the respondent will complete two (2) hours of Continuing Nurses Education (CNE) on the topic of "Kansas Nurse Practices Act. Respondent is to submit the original certificates for proof of the completion of the hours within 180 days after returning to nursing. Respondent may not use these hours to meet the CNE requirements of any renewal period.

(h) 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.

18. 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.

19. 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 the Respondent had complied with the Initial Agreed Order, but Respondent could not contest the violations listed in the agreement.

20. 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.

21. 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.

22. 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.

23. 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.

24. The Board will inactivate the case file once respondent satisfies the agreement. The 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 the agreement is entered into.

25. 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.

26. 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.

27. 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.

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.

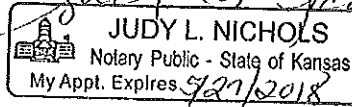
IN WITNESS WHEREOF, the parties hereto execute the INITIAL AGREED ORDER.

IT IS SO ORDERED.

Zach P. Phelps-Roper

Respondent
Zacharias Paul Phelps-Roper
2130 SW Fillmore #40
Topeka, Kansas 66611

_____ must sign before a Notary Public.



Michael R. Fitzgibbons

Michael R. Fitzgibbons #12287
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

Jo Klassen
Jo Klassen, Presiding Officer

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 14th day of January, 2016, I mailed a copy of the INITIAL AGREED ORDER:

Zacharias Paul Phelps-Roper
2130 SW Fillmore #40
Topeka, Kansas 66611

Michael R. Fitzgibbons
Michael R. Fitzgibbons, #12287
Assistant Attorney General