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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

**IN THE MATTER OF
MELINDA PEARL COUCH**

MAR 25 2016

License No. 23-39235-071/RN Application
Case No. 13-1122-9

KSBN

INITIAL AGREED ORDER

NOW ON THIS 25th day of March, 2016, the Kansas State Board of Nursing,

represented by Assistant Attorney General, Bryce D. Benedict, and the Respondent, Melinda Pearl Couch, by and through her counsel, Diane Bellquist, 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

Respondent, Melinda Pearl Couch, is licensed to practice nursing in Kansas and has an RN Application pending. The Board has jurisdiction over the Respondent and the subject matter of the action.

Respondent's address of record is 410 Clydesdale Drive, P.O. Box 783, Ogden KS 66517.

- 3. The respondent stipulates that:
 - (a) On January 31, 2013 police executed a search warrant at the Manhattan, Kansas residence of respondent's boyfriend. The respondent was present during this search.
 - (b) Police discovered two empty blister packs of Cipro, which medication had recently been prescribed to a resident where the respondent worked, i.e. the Manhattan Foundation, Inc., a/k/a Meadowlark Hills.
 - (c) The prescription for the Cipro medication for the Meadowlark Hills resident had been discontinued, and the medication was supposed to have been returned to the facility pharmacist for destruction.

- (d) Respondent denied she was responsible for the empty blister packs being at her boyfriend's residence.
- (e) Respondent admitted to the investigator for the Kansas State Board of Nursing that she allowed a friend of hers, "Dewey," to come unescorted into the Meadowlark Hills facility.
- (f) Respondent's boyfriend, and Dewey, were known to her to be drug abusers.
- (g) The Kansas State Board of Nursing has a reasonable basis to believe that if the respondent had not personally diverted the Cipro, she either was complicit or negligent in allowing Dewey or some other person into the Meadowlark Hills facility so as to allow that person to steal these medications.

4. 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

5. The above incidents are violations of the nurse practice act. The Respondent agrees that the board has sufficient evidence to prove that respondent has violated the act and stipulated to the allegations alleged in the Petition.

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. Respondent violated the Kansas Nurse Practice Act as follows:

K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110, to be guilty of unprofessional conduct as defined by rules and regulations of the board; to wit: failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each 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 the Board will approve her RN Application and agreement 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. 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 both as LPN and RN 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 its recommendations and requirements. Respondent shall sign releases of information

necessary for KNAP to evaluate for substance abuse and to monitor Respondent 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) Respondent shall immediately notify the Legal Division of any use of alcohol, if prohibited by KNAP, or controlled substances, or any violation of the Initial Agreed Order.

(d) 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.

(e) Respondent will submit **quarterly reports** from the respondent's employer, while the respondent is employed as a nurse, 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: such reports are due on the 10th day of the months of January, April, July, and October, to begin with the first such month after this agreement is effective, until eight (8) quarterly reports have been received.

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

(g) Respondent shall not violate the Kansas Nurse Practice Act during the duration of the 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 the agreement. Traffic infractions shall not be considered violations of the law.

(i) The respondent will complete two **(2) hours of Continuing Nurses Education (CNE)** on the topic of "Kansas Nurse Practices Act," <https://www.viachristi.org/health->

professionals/nursingallied-health/cne-wichita. Respondent is to submit the original certificates for proof of the completion of the hours within 90 days of this agreement. Respondent may not use these hours to meet the CNE requirements of any renewal period.

(j) 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 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.

20. 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.

21. 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.

22. 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 constitutes 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.

23. 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.



Sandra Sharon
Administrative Law Judge

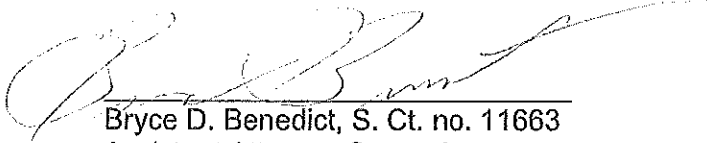
APPROVED BY:



Melinda Pearl Couch
Respondent
410 Clydesdale Drive
P.O. Box 783
Ogden, Kansas 66517



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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.

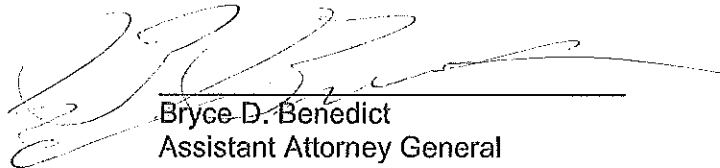
Pursuant to K.S.A. 77-531, if the final order is served by mail, three days are added to the time limits set out above.

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 25th day of March, 2016, I mailed a copy of the INITIAL AGREED ORDER to:

Diane L. Bellquist
1508 SW Topeka Blvd
Topeka, Kansas 66612



Bryce D. Benedict
Assistant Attorney General