

BEFORE THE KANSAS STATE BOARD OF NURSING
LONDON STATE OFFICE BUILDING
900 S.W. JACKSON, ROOM 551-S
TOPEKA, KANSAS 66612-1230

IN THE MATTER OF:)
)
HATTIE GONCE)
LICENSE NO. 13-027405-122) CASE NO. 92-347-0



INITIAL ORDER

Now on this 10th day of March, 1994, the above-captioned matter comes on for hearing before Helen R. Rice, the Board's designated Hearing Officer, on the Petition filed with the Board. The Petitioner appears through Assistant Attorney General Mark S. Braun, Disciplinary Counsel for the Board. The Respondent, Hattie Gonce, appears in person, pro se.

The Hearing Officer notes for the record that the Petition was originally served on the Respondent at her address last known to the Board on December 30, 1993; that the matter was originally scheduled for hearing in January, 1994, but was continued to today's date by agreement of the parties. The Hearing Officer asks both sides if they are ready to proceed. Both sides indicate they are ready.

The Hearing Officer asks if there are any preliminary matters. Petitioner makes an oral motion to amend the Petition to delete the references in the Petition's caption and paragraph 4 to the Respondent's status as a Registered Nurse Anesthetist (RNA) authorized to practice as an RNA in Kansas. In support of the motion, Petitioner states that the registered professional nurse

(RN) reinstatement application the Respondent submitted in October, 1992, did not have the necessary information or fee for reinstatement of her authorization to practice as an RNA in the State of Kansas. Respondent states that she had intended to take care of both the RN and RNA, but she does not contest that she did not have the appropriate information or fee. Further, Respondent does not object to the motion to delete the RNA references. The Hearing Officer grants the motion deleting the RNA references. Further, both sides agree, and the Hearing Officer approves, that any action that may be taken against the Respondent's RN license will also apply to the Respondent's status as an RNA if she applies for her RNA authorization in Kansas.

The Hearing Officer asks the Respondent if she wants the charges in the Petition formally read to her. Respondent waives the reading of the charges in the Petition. The Hearing Officer asks the Respondent if she has any objections to the form of the Petition; the filing of the Petition; Notice of the proceedings; or the Board's or the designated Hearing Officer's authority to hear this matter. Respondent states she has no such objections.

The Hearing Officer then informs the Respondent that she has three options relating to the charges in the Petition: (1), She may deny the allegations and the matter will proceed to a full evidentiary hearing; (2), she may stipulate or admit to the allegations whereupon the hearing officer will make a finding that the Respondent has violated the Nurse Practice Act and the matter will proceed to disposition at which the Hearing Officer will

decide what action to take against the Respondent's license; or, (3), she can neither admit nor deny the allegations, but not contest them, whereupon the Hearing Officer, after a proffer of evidence, will make a finding that the Respondent violated the Nurse Practice Act and the matter will proceed to disposition at which the Hearing Officer will decide what action to take against the Respondent's license. The Hearing Officer asks the Respondent if she understands her options. Respondent states that she does, and that she wants the second option, admitting to the allegations in the Petition, specifically that her license to practice as a nurse was disciplined by the state licensing authority of Colorado. Further, based on that action, the state licensing authorities in Texas and Oklahoma also took action against her licenses in those states.

The Hearing Officer asks the Petitioner for any statement or evidence related to the violations. Petitioner moves for the admission of Petitioner's Exhibits Nos. 1, 2, and 3. Exhibit No. 1 is a certified copy of the order of discipline issued by the licensing authority in the state of Colorado. Exhibit No. 2 is a certified copy of the order of discipline issued by the licensing authority in the state of Texas. Exhibit No. 3 is a certified copy of the order of discipline issued by the licensing authority in the state of Oklahoma. Respondent states she is familiar with those documents and has no objections to the admission of Petitioner's Exhibits Nos. 1, 2, and 3. The Hearing Officer admits the Exhibits.

The Hearing Officer asks the Respondent if she has any statement, testimony or evidence she wishes to present. The Respondent makes a statement about her practice as an RNA and moves for admission of Respondent's Exhibit No. 1. The exhibit consists of 12 pages of letters and evaluation reports submitted to the Colorado licensing authority as part of the disciplinary agreement issued by that state. Petitioner states no objection to the exhibit. Respondent's Exhibit No. 1 is admitted. The hearing officer inquires of the Respondent relating to her practice, her current practice and the disciplinary agreements she is under in three other states. The Hearing Officer recesses the hearing for her deliberation in the matter.

After due deliberation, the matter is reconvened and the Hearing Officer, after considering all the testimony and evidence presented in this matter, issues the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. Respondent was issued license number 13-027405-122 after submitting her reinstatement application in October, 1992. Said license allows the Respondent to practice as a registered professional nurse in the state of Kansas until its expiration December 31, 1994.

2. Respondent has not been authorized to practice in Kansas as a registered nurse anesthetist (RNA) since her authorization to do so expired December 31, 1990. Respondent, by her own testimony, did not reinstate her authorization to practice as an RNA when she

reinstated her RN license in October, 1992. This was apparently an oversight by the Respondent.

3. The Notice of Hearing and Petition in this matter were sent to the Respondent at her last address known to the Board by first class mail on December 30, 1993. The matter was originally scheduled for hearing in January, 1994, and the matter was continued to March 10, 1994.

4. Respondent, by her own testimony and through Petitioner's Exhibits Nos. 1, 2 and 3, had disciplinary action taken against her license to practice nursing by the appropriate licensing authorities in the States of Colorado, Texas and Oklahoma.

5. A review of Petitioner's Exhibits Nos. 1, 2 and 3 indicate Respondent was disciplined in Colorado for incidents occurring there in 1989. The subsequent disciplinary actions in Texas and Oklahoma were a direct result of the disciplinary action in Colorado.

6. Respondent states she is in compliance with the Colorado disciplinary agreement and submitted Respondent's Exhibit No. 1 in support of her statement. No evidence is presented that Respondent is not in compliance with the Colorado disciplinary agreement.

CONCLUSIONS OF LAW

1. The Board and this Hearing Officer have jurisdiction to hear this matter pursuant to the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., and the Kansas Administrative Procedures Act, K.S.A. 77- 501 et seq. Respondent stipulates to such jurisdiction.

2. The Board and, by designation, the Hearing Officer have the authority, after a finding of a violation of the Nurse Practice Act, to implement any of the disciplinary actions identified in K.S.A. 65-1120 against the Respondent's license to practice nursing in the state of Kansas, pursuant to the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., and the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

3. K.S.A. 65-1120(b) requires these proceedings of the Board to be conducted pursuant to the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

4. Notice of these proceedings and service of the notice of these proceedings were done in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq., and are therefore proper.

5. Respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1113, specifically K.S.A. 65-1120(a)(8), by having disciplinary action taken against her license to practice as a registered professional nurse (RN) by the licensing authority of another state.

6. Sufficient competent evidence has been presented to prove the violation of the Act, by Petitioner's Exhibits Nos. 1, 2 and 3, as well as the Respondent's own admission.

ORDER

IT IS THEREFORE ORDERED that Respondent's license to practice as a registered professional nurse is suspended for the duration of her disciplinary agreement with the state of Colorado. The

suspension shall be immediately stayed, allowing the Respondent to continue to practice as a registered professional nurse (RN) in Kansas as long as the following conditions are met:


1. Respondent shall submit to the Board's Practice Specialist copies of any and all reports she submits to the Colorado licensing authority pursuant to the Colorado disciplinary agreement. Said reports shall be submitted on the same dates she submits them to Colorado.

2. Respondent shall notify the Board's Practice Specialist in writing within thirty (30) days of any change of employment or change of address, unless such change of employment shall be in the State of Kansas, in which Respondent shall notify the Board's Practice Specialist in writing within ten (10) days of taking employment in the state of Kansas.

3. Respondent must be in compliance with her disciplinary agreement with the state of Colorado licensing authority.

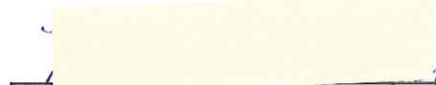
Should Respondent apply for reinstatement of her authorization to practice as a registered nurse anesthetist (RNA) in the state of Kansas during the pendency of this suspension and stay, said authorization shall be approved, assuming all other qualifications are met, with the same limitations stated in this Order.

IT IS SO ORDERED.



Helen R. Rice
Hearing Officer

Prepared and Submitted by:



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NOTICE REGARDING RELIEF FROM THIS ORDER
STATEMENT OF APPEAL RIGHTS

This is an Initial Order. The parties to whom this Initial Order is issued may file a petition for review with the Agency Head within fifteen (15) days after service of this order. The petition for review must state the specific grounds upon which relief is requested. Unless a later date is stated within the Initial Order, a stay is granted, or the order is reviewed, an Initial Order shall become a final order without further notice or proceedings thirty (30) days after the date of service as indicated by the attached certificate of service.

CERTIFICATE OF SERVICE

I, Helen R. Rice, Administrative Hearing Officer in this case, hereby certify that on the 24th day of May, 1994, I deposited a true and correct copy of the Initial Order in the United States Mail, first class mail, postage prepaid to the following:

Hattie Gonce
PO Box 3533
Eagle Pass, Texas 78853

and

Mark S. Braun
Assistant Attorney General
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson Rm 551-S
Topeka, Kansas 66612-1230


HELEN R. RICE
HEARING OFFICER