

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

IN THE MATTER OF:)
)
JAMES WHITE)
RN LIC.# 13-035011-111)
RNA # 00200)
ARNP # 54094)

CASE NO. 94-0202-1



CONSENT AGREEMENT AND FINAL ORDER

COMES NOW the Petitioner, the Kansas State Board of Nursing, hereinafter referred to as the "Board", by and through Assistant Attorney General Mark S. Braun, and the Respondent, James White, pro se, and respectfully request that the Board, or its designee, approve this Consent Agreement and Final Order as the resolution in this case. This Consent Agreement and Final Order affects the Respondent's license to practice as a registered professional nurse (RN); his certification as an Advanced Registered Nurse Practitioner; and his authorization to practice as a registered nurse anesthetist (RNA).

AGREEMENT

It is the intent and purpose of this Consent Agreement and Final Order to provide for settlement of all issues currently

before the Board without the necessity of a formal petition or hearing. The parties agree as follows:

1. Respondent is licensed to practice as a licensed registered professional nurse (RN) in the State of Kansas, having been issued license number 13-035011-111, with an expiration date of November 30, 1995.

2. Respondent has been issued a certificate of qualification by the board authorizing him to perform duties of an advanced registered nurse practitioner (ARNP), pursuant to K.S.A. 65-1131, in the category of nurse anesthetist, pursuant to K.A.R. 60-11-102(b). Respondent's ARNP certificate number is 54094. Respondent's RNA authorization number is 00200.

3. In order to receive certification as a advanced registered nurse practitioner (ARNP), or authorization to practice as a registered nurse anesthetist (RNA), an individual must first be licensed to practice as a registered professional nurse (RN), in Kansas. Therefore, by operation of law, any action suspending a RN license would also suspend the Board issued ARNP certification and RNA authorization.

4. Both parties to this Agreement acknowledge that the Board received information and conducted an investigation as to whether Respondent violated the Kansas Nurse Practice Act by being unable to practice with safety and skill due to current and consistent use of alcohol. While Respondent has been through treatment for his substance abuse problem, he has had several relapses.

5. Respondent, acknowledges and understands that: he has the right to obtain an attorney and be represented through any and all stages of these proceedings; he has the right to a full and fair hearing on the allegations made by the Petitioner. At such hearing, the Petitioner would be required to present witnesses and evidence in support of the allegations. Respondent, would have the opportunity to cross-examine Petitioner's witnesses and the opportunity to present witnesses and evidence on his behalf. The matter would be decided on the evidence presented and a decision would include findings of fact and conclusions of law. Respondent would have the right to seek reconsideration of any adverse order issued by the Board and the right to seek judicial review of any adverse Board order or decision. Respondent, with the advice of counsel, understands that by entering into this Consent Agreement and Final Order, he is waiving all of the above-mentioned rights.

6. In lieu of proceeding to the filing of a petition and a full hearing, Respondent acknowledges the content of paragraph 1, above, and admits the allegations in paragraph 1. Respondent understands that by admitting to the allegation, the Board will find that Respondent has violated the Kansas Nurse Practice Act. Upon that finding of a violation of the Act, the Board, or its designee, may take action against the license, certification and authorization Respondent currently holds with this Board.

7. The parties mutually agree to resolve this matter pursuant to disciplinary alternatives stated in K.S.A. 65-1120 as follows:

A. Respondent voluntarily agrees to a suspension of his RN license; his ARNP certification; and his RNA authorization to practice as a nurse anesthetist. The voluntary suspension shall be in effect until his current license, certification and authorization to practice in Kansas expire November 30, 1995.

B. Respondent shall remain in the Kansas Nurse Assistance Program and maintain compliance with that program and its recommendations.

C. Respondent shall sign appropriate releases of information for the Board to have access to Respondent's treatment records and information, as well as contact with any and all treatment professionals or personnel.

D. In order to regain his ability to practice after November 30, 1995, Respondent shall timely file a renewal application. A reinstatement application may be filed if it occurs after the November 30, 1995 expiration date. Without the affirmative action by the Respondent, his license shall expire November 30, 1995. The application shall be considered by the Board and a determination made whether or not Respondent's privileges to practice should be reinstated at that time, and if reinstated, what if any, limitations or restrictions should be placed on his privileges.

E. Nothing in this agreement and order is intended to prevent the Respondent from earning or completing his BSN

degree, as long as there is appropriate supervision. Respondent shall have direct supervision of a clinical instructor for the administration of any controlled or mood altering substances until further order of this Board.

F. Respondent's clinical supervisor and all of his clinical instructors shall be informed of this agreement and order.

G. Respondent's clinical supervisor shall submit reports to the Board's practice specialist regarding Respondent's performance and patient care while Respondent is part of the BSN clinical program. The reports shall be due April 20, 1995; July 20, 1995; and October 20, 1995.

8. Respondent agrees that the recitations set forth in the Final Order section of this document constitute his agreement to resolve this matter and acknowledges such as the Board's order in this matter.

9. Should the Board, or its designee, modify or change the Consent Agreement and Final Order in any manner unsatisfactory to either party, either party may withdraw its consent and the matter will proceed to hearing. Further, if the Consent Agreement and Final Order, as signed by the parties, is not acceptable to the Board, or its designee, neither party shall be bound to any representations made in this Agreement.

10. The parties to this Agreement and Order further agree that if any changes are made as stated in paragraph 6 of this

Agreement, Respondent shall receive notice of a hearing and will be provided sufficient time to prepare for the hearing in compliance with 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.

11. The Respondent is aware of the factual and documentary information relating to the alleged violation. Respondent acknowledges he is aware of the allegations against him and waives the filing of a petition in this matter.

12. By his signature on this document, Respondent acknowledges that he has read and understands the Consent Agreement and Order.

FINDINGS OF FACT

1. Respondent is licensed to practice as a licensed registered professional nurse (RN) in the State of Kansas, having been issued license number 13-035011-111, with an expiration date of November 30, 1995.

2. Respondent has been issued a certificate of qualification by the board authorizing him to perform duties of an advanced registered nurse practitioner (ARNP), pursuant to K.S.A. 65-1131, in the category of nurse anesthetist, pursuant to K.A.R. 60-11-102(b). Respondent's ARNP certificate number is 54094. Respondent's RNA authorization number is 00200.

3. The Board received Information and conducted an investigation into alleged violations of the Kansas Nurse Practice Act by the Respondent.

4. The Board found there were reasonable grounds to believe Respondent violated the Kansas Nurse Practice Act.

5. The Respondent is unable to practice with safety and skill due to current abuse of alcohol.

6. Respondent's conduct through relapses and continuous use of alcohol constitutes a violation of the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., specifically K.S.A 65-1120 (a)(4), unable to practice with safety and skill due to the current abuse of alcohol.

7. Respondent admits to the violation.

8. In lieu of proceeding to a full administrative hearing, the parties have agreed to enter into and be bound by this Consent Agreement and Final Order.

10. The Parties understand and acknowledge that, pursuant to K.S.A. 45-215 et seq., the signed original of the Consent Agreement and Final Order shall remain in the custody of the Board as a public record.

CONCLUSIONS OF LAW

1. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter pursuant to K.S.A. 65-1120.

2. Respondent is not represented by counsel. Respondent, by his signature on this document, has knowingly and intelligently waived his rights as previously stated in the Paragraph 2, of the Agreement section of this document.

3. In order to receive certification as a advanced registered nurse practitioner (ARNP), or authorization to practice

as a registered nurse anesthetist (RNA), an individual must first be licensed to practice as a registered professional nurse (RN), in Kansas. Therefore, by operation of law, any action suspending a RN license would also suspend the Board issued ARNP certification and RNA authorization.

4. Respondent admits to the allegation he violated the Kansas Nurse Practice Act. Based on the statements in paragraph 1 of the Agreement section of this document, and paragraphs 3,4,5,6, and 7 of the Findings of Fact, Respondent has violated the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., specifically K.S.A. 65-1120(a)(4), that he is unable to practice with safety and skill due to current abuse of alcohol.

5. The Petitioner and Respondent have entered into this Consent Agreement and Final Order which, when signed by both parties and the Board or its designee, will be binding on the parties and the Board.

FINAL ORDER

WHEREFORE, based on the foregoing Agreement, Findings of Fact and Conclusions of Law, IT IS THEREFORE ORDERED that the following action will be taken against the Respondent's license to practice as a registered professional nurse (RN), advanced registered nurse practitioner (ARNP), and registered nurse anesthetist (RNA), in the State of Kansas:

A. Respondent's RN license; ARNP certification; and RNA authorization to practice as a nurse anesthetist are hereby suspended. The suspension shall be in effect

until his current license, certification and authorization to practice in Kansas expire November 30, 1995.

B. Respondent shall remain in the Kansas Nurse Assistance Program and maintain compliance with that program and its recommendations.

C. Respondent shall sign appropriate releases of information for the Board to have access to Respondent's treatment records and information, as well as contact with any and all treatment professionals or personnel.

D. In order to regain his ability to practice after November 30, 1995, Respondent shall timely file a renewal application. A reinstatement application may be filed if it occurs after the November 30, 1995 expiration date. Without the affirmative action by the Respondent, his license shall expire November 30, 1995. The application shall be considered by the Board and a determination made whether or not Respondent's privileges to practice should be reinstated at that time, and if reinstated, what if any, limitations or restrictions should be placed on his privileges.

E. Nothing in this agreement and order is intended to prevent the Respondent from earning or completing his BSN degree, as long as there is appropriate supervision. Respondent shall have direct supervision of a clinical instructor for the administration of any controlled or

mood altering substances until further order of this Board.

F. Respondent's clinical supervisor and all of his clinical instructors shall be informed of this agreement and order.

G. Respondent's clinical supervisor shall submit reports to the Board's practice specialist regarding Respondent's performance and patient care while Respondent is part of the BSN clinical program. The reports shall be due April 20, 1995; July 20, 1995; and October 20, 1995.

IN WITNESS WHEREOF, the parties hereunto execute this Consent

A
[Redacted]

James White
JAMES WHITE

1-9-95
DATE

Re: [Redacted]

MARK S. BRAUN
Assistant Attorney General
Board Disciplinary Counsel

1-10-95
DATE

WHEREFORE, the provisions stated above are hereby adopted and made the Final Order of the Kansas State Board of Nursing.

IT IS SO ORDERED.

Dated this 11th day of January, 1995

[Redacted]

Board Representative or
Board Designee


CERTIFICATE OF SERVICE

This is to certify that a copy of this CONSENT AGREEMENT AND FINAL ORDER was served by placing same in the United States Mail, first class, postage prepaid this 11th day of January, 1995, to:

James White
2516 W. 4th Street
Pittsburg, Kansas 66762

and by hand delivering a copy to

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



Diane M. Glynn, J.D., R.N.
Practice Specialist