

Rec'd from Tom Black  
NOV 15 1993  
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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: )  
 )  
URSULA ERIKA BENINTENDI )  
LICENSE NO. 13-036838-012)

CASE NO. 92-377-4

Rec'd from Helen Rice  
NOV 17 1993 701

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, Ursula Erika Benintendi, by and through her counsel, Thomas V. Black, of Black's Law Office, P.A., Pratt, Kansas, and respectfully request the Board, or its designee, to approve this Consent Agreement and Final Order as the resolution in this case. By entering into this Consent Agreement and Final Order, both parties waive their right to a full administrative hearing pursuant to K.S.A. 65-1120(b) and K.S.A. 77-523. This Consent Agreement and Final Order affects the Respondent's license to practice as a registered professional nurse (R.N.) in Kansas.

**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 hearing. Respondent, with the advice of counsel, knowingly and intelligently waives her right to a hearing on the issues currently before the Board relating to her license. The parties agree as follows:

1. Both parties to this Agreement acknowledge that the Board received a complaint and conducted an investigation as to whether Respondent violated the Kansas Nurse Practice Act. Based on that investigation, there are reasonable grounds to believe Respondent violated the Act. Respondent's attorney was provided factual and documentary information regarding the specific counts stated in the Petition.

2. Respondent, with advice of counsel, acknowledges and understands that: she 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; she, through her counsel, has the opportunity to cross-examine Petitioner's witnesses; she, through counsel, has the opportunity to present witnesses and evidence on her behalf; the matter would be decided on the evidence presented and a decision would include findings of fact and conclusions of law; 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, she is waiving all of the above-mentioned rights.

3. In lieu of proceeding to a full hearing, Respondent stipulates to Counts I, II, III and IV of the Petition. Respondent, with the advice of counsel, understands that by stipulating to those four counts, she is admitting to violations of the Kansas Nurse Practice Act.

4. Pursuant to the disciplinary remedies available in K.S.A. 65-1120, Respondent's license to practice as a registered professional nurse (R.N.) will be suspended for a period of two years from the date the Consent Agreement and Final Order is approved by the Board, or its designee. Said suspension shall be stayed once Respondent submits proof to the Board's Practice Specialist that Respondent has successfully completed an inpatient substance abuse treatment program and meets the following conditions:

A. For the first year of this Agreement and Order, Respondent shall not administer any scheduled substance or mood altering drug, nor shall she have access to any medication storage areas. If, in the judgement of the administrator of the impaired licensee program and the Board's practice specialist, Respondent's situation warrants, Respondent may administer medication and have access to storage areas as directed by the program administrator or practice specialist. Prior written approval must be submitted before Respondent may administer medication or have access to medication storage areas.

B. Respondent shall enroll in, participate in, and successfully complete the new impaired licensee program contracted for by the Board. Respondent will be notified by the Board or the new program provider once that program has been implemented. Until that program is on line, Respondent will cooperate with the Board staff in monitoring and testing of the Respondent.

C. Respondent shall notify the Board's Practice Specialist in writing within ten (10) days of any changes in residence, home telephone number, employment, or other work situations.

D. The Board's Practice Specialist shall receive quarterly reports about Respondent's work from her closest supervising agent. The reports shall include information about Respondent's attendance, quality of work performance and patient care. If Respondent cannot obtain employment, Respondent can attend school to work on advanced nursing degrees during any part of the two (2) year period of this agreement. If Respondent is in school, the quarterly reports shall be submitted by her supervisor or advisor.

E. Respondent shall obtain six (6) hours of continuing nursing education on the topic of charting, medication charting or the importance of accurate charting. Three of those hours are to be earned on or before June 30, 1994. The other three hours are to be earned before June 30, 1995. These six hours must be pre-approved by the Board's Practice Specialist. These six hours are in addition to, and not to be counted toward, the thirty (30) hours of mandatory continuing nursing education for license renewal. Proof of earning the six hours shall be submitted to the Board's Practice Specialist within ten (10) days of taking the classes.

F. Respondent's current license expires January 31, 1994. The re-issuance of her license shall be contingent upon this

Agreement and Order remaining in effect until the two year period as previously identified.

5. By signing this Consent Agreement and Final Order, Respondent acknowledges she has read the entire document; that she has obtained counsel who advised her in this matter and that she is satisfied with the representation in this matter and agrees to be bound by this document.

6. 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.

7. Respondent and her counsel acknowledge that they have received the factual and documentary information relating to the counts stated in the Petition. Respondent and her counsel further acknowledge that they have reviewed the Petition to be filed in this case and agree to waive formal notice of the filing of the Petition. Respondent and her counsel further understand that the Petition in this case will be simultaneously filed with this Consent Agreement and Final Order after Respondent and her counsel sign the Agreement. The parties to this Agreement and Order further agree that if any changes are made as stated in paragraph 6 of this Agreement, Respondent and her counsel shall receive

notice of a hearing and will be provided sufficient time to prepare for the hearing.

#### FINDINGS OF FACT

1. Respondent is licensed to practice as a registered professional nurse (R.N.) in the State of Kansas, having been issued license number 13-036838-012, with an expiration date of January 31, 1994.

2. The Board received a complaint and conducted an investigation into alleged violations of the Kansas Nurse Practice Act by the Respondent.

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

4. On or about November 16, 1992, Respondent failed to follow procedures and policies designed to safeguard the patient in violation of K.S.A. 65-1120(a)(6), as defined by K.A.R. 60-3-110(a)(3).

5. On or about November 16, 1992, Respondent inaccurately recorded a patient or agency record in violation of K.S.A. 65-1120(a)(6), as defined by K.A.R. 60-3-110(a)(4).

6. On or about November 16, 1992, Respondent diverted drugs of patients or agency in violation of K.S.A. 65-1120(a)(6), as defined by K.A.R. 60-3-110(a)(9).

7. Respondent has been habitually intemperate in the use of habit forming drugs in violation of K.S.A. 65-1120(a)(4).

8. Respondent, with the advice of counsel, stipulates and admits to Counts I, II, III and IV as contained in the Petition.

9. 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 represented by counsel. Through the advice of counsel, Respondent is aware of her rights under the United States and Kansas Constitutions, the Kansas Nurse Practice Act and the Kansas Administrative Procedures Act. Based on the knowledge of her rights and advice of counsel, Respondent has knowingly, intelligently, and voluntarily waived her rights and entered into this Consent Agreement and Final Order. In lieu of proceeding to a full administrative hearing, Respondent waives her rights to: an adjudicative administrative hearing in which the evidence and witnesses would be presented; cross-examination of those witnesses against her; the opportunity to present witnesses and evidence on her behalf; a decision by the Board or its designee based on the evidence; findings of facts and conclusions of law; the right to seek reconsideration by the Board of any adverse decision and the right to seek judicial review by a district court of any adverse decision by the Board.

3. Respondent has stipulated and admitted to Counts I, II, III and IV contained in the Petition. Based on those stipulations, Respondent has violated the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq.

4. Respondent is guilty of unprofessional conduct in that on or about November 16, 1992, she failed to follow procedures and policies designed to safeguard the patient, in violation of K.S.A. 65-1120(a)(6), as defined K.A.R. 60-3-110(a)(3).

5. Respondent is guilty of unprofessional conduct in that on or about November 16, 1992, she inaccurately recorded a patient or agency record in violation of K.S.A. 65-1120(a)(6), as defined by K.A.R. 60-3-110(a)(4).

6. Respondent is guilty of unprofessional conduct in that on November 16, 1992, she diverted drugs of patients or agency in violation of K.S.A. 1120(a)(6), as defined by K.A.R. 60-3-110(a)(9).

7. Respondent has been habitually intemperate in the use of habit forming drugs in violation of K.S.A. 65-1120(a)(4).

8. 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.

9. Respondent and her counsel have reviewed the Petition and waive formal notice of the filing of the Petition with the understanding that the Petition and Consent Agreement and Final Order will be filed with the Board simultaneously.



## 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 (R.N.) in the State of Kansas:

Pursuant to the disciplinary remedies available in K.S.A. 65-1120, Respondent's license to practice as a registered professional nurse (R.N.) will be suspended for a period of two (2) years from the date this Consent Agreement and Final Order is approved by the Board or its designee. Said suspension shall be stayed upon proof Respondent has successfully completed an inpatient substance abuse treatment program, and Respondent meets the following conditions:

A. For the first year of this Agreement and Order, Respondent shall not administer any scheduled substance or mood altering drug, nor shall she have access to any medication storage areas. If, in the judgement of the administrator of the impaired licensee program and the Board's practice specialist, Respondent's situation warrants, Respondent may administer medication and have access to storage areas as directed by the program administrator or practice specialist. Prior written approval must be submitted before Respondent may administer medication or have access to medication storage areas.

B. Respondent shall enroll in, participate in, and successfully complete the new impaired licensee program contracted for by the Board. Respondent will be notified by the Board or the new program provider once that program has been implemented.

Until that program is on line, Respondent will cooperate with the Board staff in monitoring and testing of the Respondent.

C. Respondent shall notify the Board's Practice Specialist in writing within ten (10) days of any changes in residence, home telephone number, employment, or other work situations.

D. The Board's Practice Specialist shall receive quarterly reports about Respondent's work from her closest supervising agent. The reports shall include information about Respondent's attendance, quality of work performance and patient care. If Respondent cannot obtain suitable employment, Respondent can attend school to work on advanced nursing degrees during any

E. Respondent shall obtain six (6) hours of continuing nursing education on the topic of charting or the importance of accurate charting. Three of those hours are to be earned on or before June 30, 1994. The other three hours are to be earned before June 30, 1995. These six hours must be pre-approved by the Board's Practice Specialist. These six hours are in addition to, and not to be counted toward, the thirty (30) hours of mandatory continuing nursing education for license renewal. Proof of earning the six hours shall be submitted to the Board's Practice Specialist within ten (10) days of taking the classes.

F. Respondent's current license expires January 31, 1994. The re-issuance of her license upon a timely application for renewal shall be contingent upon this Agreement and Order remaining in effect until the two year period as previously identified.

IN WITNESS WHEREOF, the parties hereunto execute this Consent Agreement and Final Order:

[Redacted Signature]  
URSULA ERIKA BENINTENDI

11-11-93  
DATE

[Redacted Signature]  
THOMAS V. BLACK  
Attorney for the Respondent

11-11-93  
DATE

[Redacted Signature]  
MARK S. BRAUN  
Assistant Attorney General  
Board Disciplinary Counsel

11-15-93  
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 16<sup>th</sup> day of November, 1993.

[Redacted Signature]  
Board Representative or  
Board Designee