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JAN 12 2009

KSBN

BEFORE THE KANSAS STATE BOARD OF NURSING

Landon State Office Building, 900 S.W. Jackson #1051
Topeka, Kansas 66612-1230

IN THE MATTER OF

MARY J. BROOKS

License No. 13-042646-072

Case No. 08-891-0

FILED - 01/12/09

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CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 13th day of January, 2009, the Kansas State Board of Nursing, represented by Assistant Attorney General, Alma A. Heckler, and the Respondent, Mary J. Brooks, represented by Robert Brooks, hereby enter into this agreement and proffer evidence and the hearing officer adopts those recommendations and makes the following findings of fact and orders:

AGREED FINDINGS OF FACT

1. Respondent filed a reinstatement application on or about October 9, 2008 to practice nursing in Kansas. The Kansas State Board of Nursing (KSBN) has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent's address of record is 2333 E. Shady Glen Dr., Springfield, MO 65804.
3. The Respondent understands that pursuant to K.S.A. 77-515, respondent may be represented at respondent's expense by, an attorney during these proceedings.
4. 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 this matter for further proceedings.
5. 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.

6. (a) Applicant was disciplined in Colorado. Her license was revoked on 5/13/2004. On or about July 23, 2008, the respondent was placed on probation by the Missouri Board of Nursing (MBON) based on the Colorado action. Applicant is not eligible to be relicensed in Colorado.

(b) Applicant's probation in Missouri is for a two year period and applicant is mandated to meet with the Missouri Board as required; not violate the MBON Nurse Practice Act; notify the Board of any changes in employment and/or residence; applicant shall not serve as administrative staff; or hold a faculty or preceptor positions of any school of nursing; and not prescribe any controlled substances or medications during the two year probationary period.

7. The above incidents are violations of the nurse practice act. The Respondent agrees that the board is prepared to prove that respondent has violated:

Count 1: K.S.A. 65-1120(a)(8), to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country.

8. 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 this agreement instead of proceeding to such a hearing.

CONCLUSIONS OF LAW

9. 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.

10. Respondent has violated the Kansas Nurse Practice Act as follows:

Count 1: K.S.A. 65-1120(a)(8), to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country.

POLICY STATEMENT

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

DISPOSITION

12. By entering into this Consent Agreement and consenting to the entry of the Final 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.

13. Upon the parties entering into this Consent Agreement and with the respondent having met all statutory requirements for reinstatement of respondent's Kansas Nursing license, the respondent's application for reinstatement of respondent's Kansas Nursing license will be granted.

14. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that this Consent Agreement will continue through any renewal periods of respondent's nursing license until respondent completes each of the conditions and requirements of this 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 this Consent Agreement and Final Order remaining in effect until Respondent completes each of the conditions and requirements of this agreement.

15. Based upon this 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 in Kansas is immediately suspended. The suspension will be stayed as long as the requirements and conditions of this agreement are met.

16. Based upon this 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 in Kansas is immediately limited. The limitations placed on the license and described below will remain in place until the requirements and conditions of this agreement are met or until the requirements and conditions of this agreement call for the modification of the limitations.

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 must comply with all of the following requirements of the MBON agreement, effective 7/23/08, and was placed on probation for a period of two (2) years:

A. Licensee shall meet with the Board or its professional staff at such times and places as required by the Board. If Licensee does not receive notice of a meeting with the board within one (1) month after the effective date of this agreement, Licensee shall promptly contact the Board Office.... If licensee fails to contact the Board Office after the one (1) month period has passed, the Board will presume that Licensee received notification of the date and time of her meeting with the Board. Failure of Licensee to receive a notice of a scheduled meeting does not excuse Licensee's non-attendance.

B. Licensee shall immediately submit documents showing compliance with the requirements of this agreement to the Board when requested.

C. Licensee shall inform the board within ten (10) days of any change of home address or home telephone number.

D. Licensee shall not violate the Nursing Practice Act, Chapter 335, RSMo, shall renew her license immediately and shall not allow her license to lapse. Licensee may place her license on inactive status. The conditions of discipline will continue to apply if the license is inactive.

E. Licensee shall keep the State Board of Nursing informed of her current place of employment and of any changes in her place of employment by notifying the board within ten (10) working days of such a change.

F. Licensee may not serve on the administrative staff, as a member of the faculty or as a preceptor at any accredited school of professional or practical nursing.

G. Licensee shall not prescribe any controlled substances or medications while acting in the capacity as a nurse care practitioner and during the two year probationary period.

H. Licensee shall obtain at least fifteen (15) contact ours beginning the effective date of discipline in **Documentation, Nursing Law and Ethics, including prescribing medication**. Licensee shall submit proof of completion of continuing education programs to the Board during the disciplinary period. (Kansas Board of Nursing will require the original certificates of completion to prove compliance with and completion of the education requirements in Missouri, within one month of the effective date of Licensee's agreement with the Kansas Board.)

(b) Respondent must comply with each and every condition of the MBON agreement, as set out above in item 17 (a) (A) - (H). Any failure to do so by the respondent will result in a finding of non-compliance with the Kansas Board and this agreement. If the respondent violates the agreement with the Missouri Board, the respondent has ten (10) days to contact the Kansas Board in writing of the violation.

(c) This term of this agreement will terminate when the respondent has completed the terms of the MBON agreement and the respondent will be responsible for sending written confirmation of completion of the MBON agreement to the Kansas Board/Legal Division.

(d) The respondent shall immediately inform all employers and prospective employers of this Consent Agreement and the Final Order.

(e) Respondent shall send a money order for \$70 to the Board upon entering into this agreement to pay the cost of this action.

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

(g) Respondent shall not violate the laws of the United States, of State, or of any political subdivision of any State during the term of this agreement. Traffic infractions shall not be considered violations of the law.

(h) Respondent agrees to notify the Legal Division of the Kansas Board of Nursing 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 this Consent Agreement. Respondent further acknowledges and agrees that to provide the Board with false information regarding compliance with this Consent Agreement is a violation of this Consent Agreement.

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 Respondent had complied with this Consent Agreement, but Respondent could not contest the violations listed in this agreement.

20. All parties understand that if an action based on failure to meet the conditions and requirements of this Consent Agreement 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 his or her attorney, if any, in reference to the action.

21. Respondent acknowledges and agrees that upon a first finding of Respondent not complying with the conditions or requirements of this Consent Agreement, the Stay of Suspension of Respondent's license to practice nursing in the State of Kansas, shall be lifted for a period of six months from the date of said finding. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension.

22. Respondent acknowledges and agrees that upon a second or subsequent finding of Respondent not complying with the conditions or requirements of this Consent Agreement the Stay of Suspension of Respondent's license to practice nursing in the State of Kansas, shall be lifted for a period of one year from the date of said finding. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension.

23. Respondent acknowledges and agrees that upon the Stay of Suspension being lifted due to a finding of non-compliance with this Consent Agreement, the Suspension will not again be stayed until the Respondent has, following the prescribed time period of suspension, provided written verification to the Board that Respondent is in compliance with all conditions and requirements of this Consent Agreement. Upon the Respondent providing said written verification the suspension will again be stayed.

24. The Board will inactivate this case file once respondent satisfies this agreement and provides proof of successful completion of the MBON agreement. This 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 this agreement is entered into.

25. This agreement is a discipline and must be reported on any future renewal or reinstatement applications. This agreement is a contract entered into by the parties to resolve an investigative case. The original of this agreement shall be placed in the Agency Record. This Agreement is a public record and will be reported to national disciplinary data banks.

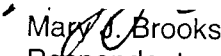
26. After successful completion of all of the conditions and requirements of this Consent Agreement by the respondent, the Consent Agreement will be satisfied and the case will be inactivated.

27. By signing this Consent Agreement and Final Order, Respondent acknowledges that Respondent has read and understands the entire document, and agrees to be bound by its terms. This Consent Agreement and Final 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 this CONSENT AGREEMENT AND FINAL ORDER.

IT IS SO ORDERED.

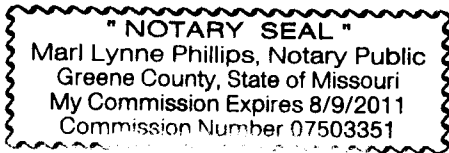

Mary J. Brooks
Respondent
2333 E. Shady Glen Dr.
Springfield, MO 65804


Mary J. Brooks must sign before a Notary Public.

STATE OF MISSOURI)
) ss.
COUNTY OF GREENE)

Subscribed and sworn to before me this 9th day of January, 2009, by Mary J. Brooks.

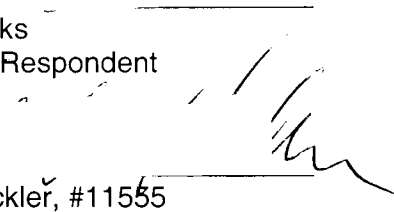
Witness my hand and official seal.




Notary Public /



Robert Brooks
Counsel for Respondent


Alma A. Heckler, #11555
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

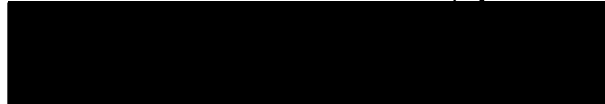
Sandra L. Sharon, Presiding Officer

CERTIFICATE OF SERVICE

On the 13 day of January, 2008, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Mary J. Brooks
2333 E. Shady Glen Dr.
Springfield, MO 65804

Robert Brooks
Counsel for Respondent
2333 E. Shady Glen Dr.
Springfield, MO 65804



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