

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:)
) CASE NO. 94-0262-6
MARGARET OSBORN)
LICENSE NO. 13-046608-011)



INITIAL ORDER

Now on this 14th day of July, 1995, the above-captioned matter comes on for a scheduling docket hearing before Terry E. Beck, the Board's designated Hearing Officer, on the Petition filed with the Board. The Petitioner appears by and through Assistant Attorney General Mark S. Braun, Disciplinary Counsel for the Board. The Respondent, Margaret Osborn, appears in person and without counsel.

The Hearing Officer notes for the record that the Petition and Notice of Proceedings were served on the Respondent June 30, 1995, by placing same in the United States Mail to her at 927 Lawrence Avenue, Lawrence, Kansas 66049-3016. Upon inquiry, Respondent states she received the Petition and Notice of Proceedings. The Hearing Officer advises the Respondent that she has the right to be represented by an attorney in these proceedings, if she chooses to obtain one. Respondent states she is aware of this right, but she is waiving that right and wishes to proceed without counsel. The

Hearing Officer asks both sides if they are ready to proceed. Both sides indicate they are ready.

The Hearing Officer advises the Respondent that there is one count or violation alleged in the Petition and inquires if she understands the violation charged in the Petition. Respondent states she understands it. The Hearing Officer advises the Respondent she may either admit or deny the allegations contained in the Petition. If Respondent denies the allegations, the matter will be set for hearing in which the Petitioner will have to prove, through witnesses and evidence, that the Respondent committed the act(s) complained of in the Petition. The Respondent will have the opportunity to cross-examine the Petitioner's witnesses, as well as the opportunity to present witnesses and evidence on her own behalf. If Respondent admits the allegations, there will be no hearing. Based on the admission(s), the Hearing Officer will make a finding that the Respondent committed the act(s) complained of and that Respondent has violated the Kansas Nurse Practice Act as specified in the Petition. The matter will then proceed to disposition to determine and impose the appropriate discipline for the violation.

The Hearing Officer inquires of the Respondent if she understands her options regarding the allegations. Respondent states that she understands her options. The Hearing Officer inquires of the Respondent whether she admits or denies the violation alleged in paragraph 5 of the Petition. Respondent admits to the violation. As to disposition, the parties indicate

to the Hearing Officer that they have reached an agreed recommended disposition. In support of that disposition, the Petitioner submits Petitioner's Exhibit #1, which is admitted without objection. The Respondent submits Respondent's exhibits #1 and #2, which are admitted without objection.

Based upon the Respondent's admissions to the violation, the Hearing Officer makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Respondent was issued license number 13-046608-011, which expired January 31, 1995. Respondent submitted a timely renewal application and has been able to continue to practice as a nurse under the continuing practice rule of the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

2. The Notice of Proceedings and Petition in this matter were sent to the Respondent at her last address known to the Board by first class mail on June 17, 1995.

3. Respondent, after explanation of her options, admitted to the violation as stated in the Petition.

4. During the period of May and June, 1994, the Respondent falsified medical records of a patient and agency by documenting procedures in the medical records that she did not perform, and signed physicians names or initials to the records without the physicians' knowledge or authorization. Such conduct constitutes unprofessional conduct in violation of K.S.A. 65-1120(a)(6), as defined by K.A.R. 60-3-110(d).

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 impose any of the disciplinary sanctions 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. Based on Respondent's admission, Respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., specifically that during the period of May and June, 1994, the Respondent falsified medical records of a patient and agency by documenting procedures in the medical records that she did not perform, and signed physicians names or initials to the records without the physicians' knowledge or authorization. Such conduct constitutes

unprofessional conduct is in violation of K.S.A. 65-1120(a)(6), as defined by K.A.R. 60-3-110(d).

6. The Respondent has violated the Kansas Nurse Practice Act as specified in the Petition.

ORDER

Based on the above findings of fact and conclusions of law, IT IS THEREFORE ORDERED pursuant to the disciplinary remedies available under K.S.A. 65-1120(a), the following disciplinary action shall be taken against the Respondent:

A. Respondent is hereby privately censured.


B. Respondent is hereby assessed an administrative fine pursuant to K.S.A. 74-1110 of one hundred dollars (\$100.00), which shall be paid no later than January 15, 1996. Said fine shall be paid by cashier's check or money order payable to the State of Kansas and delivered to the Board for deposit in the State's general fund.

C. Respondent is assessed costs of this matter in the amount of twenty-five dollars (\$25.00), which shall be paid no later than January 15, 1996. Said costs shall be paid by cashier's check or money order made payable to the Board of Nursing.

D. Respondent shall obtain six hours of continuing nursing education. Those hours shall be in the area of nursing ethics or nursing and the law. These hours are in addition and not to be counted toward the thirty (30) hours needed for her license renewal in January, 1997.

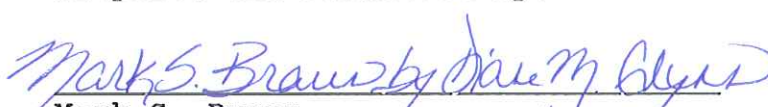
However, proof of obtaining these six hours shall be submitted to the Board's Practice Specialist within ten days of obtaining them. These hours shall be earned no later than June 30, 1996.

IT IS SO ORDERED.



Terry E. Beck
Hearing Officer

Prepared and Submitted by:


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Disciplinary Counsel
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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

This is to certify that on the 7th day of August, 1995, I deposited a true and correct copy of the Initial Order in the United States Mail, first class mail, postage prepaid to the following:

Margaret Osborn
927 Lawrence Avenue
Lawrence, Kansas 66049-3016

and by hand delivery 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