

BEFORE THE KANSAS STATE BOARD OF NURSING

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

IN THE MATTER OF DENISE MARIE BRULL

License No. 13-48437-031 AND 23-11336-031

Case No. 12-2208-3

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INITIAL AGREED ORDER

NOW ON THE 30th day of September, 2013, THE ABOVE MATTER

COMES BEFORE THE Kansas State Board of Nursing (Board) pursuant to authority granted to the Board by K.S.A. 65-1120. The Board hereby proposed to find facts and take disciplinary action against the Licensee by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. Respondent, Denise Marie Brull, is licensed to practice nursing in Kansas. The Board has jurisdiction over the Licensee and the subject matter of the action.
2. Applicant's address of record is 1501 220th Ave Hays, Kansas 67601.
3. The case was submitted to the Investigative Committee on the 10th day of June, 2013.
4. Review of the investigation and other information gathered by the Board revealed the following information upon which the action is based.
5. 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 the matter for further proceedings.
6. 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.

7. (a) A Summary Order was filed July 19th, 2013 to take disciplinary action against the licensee's license.

(b) The Summary Order suspended Respondent's License for Ninety (90) days pending the outcome of a Neuropsychological Report.

(c) A evaluation was done on the 16th day of August, 2013 and copies were sent to KSBN and KNAP.

(d) Based on that report the Board is setting aside the Summary Order.

FACTS COMMON TO ALL COUNTS

8 The facts below are common to all counts:

a. While employed at Professional Home Health Services, it was reported that this licensee exhibited poor nursing judgment and concerns about her safety to practice nursing.

b. Licensee was referred to to KNAP by her employer on the 15th day of October, 2012 for evaluation and possible monitoring.

c. Licensee entered into the KNAP program on the 15th day of November, 2012.

d. A Psychological Evaluation was conducted and submitted to KNAP on or about the 4th day of December, 2012 recommending that this licensee present herself for neuropsychological evaluation to more specifically assess her cognitive strengths and weakness and better determine whether she does, in fact, have cognitive capacity to practice nursing safely.

e. On 6th day of December, 2012, KNAP contacted licensee in regards to the results of her psychological testing and notified her that she was not able to work as a result of the evaluation.

f. The above incidents are violations of the nurse practice act. The Respondent agrees that the board is prepared to prove that respondent has violated the act and stipulates to the allegations alleged in the Summary Order.

Respondent has violated the Kansas Nurse Practice Act as follows:

- a. K.S.A. 65-1120(a)(7), willfully and repeatedly violation provisions of the Kansas Nurse Practice Act by failing to complete the requirements of impaired provider program KAR 60-3-110(s).

10. 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 their agreement instead of proceeding to such a hearing.

CONCLUSIONS OF LAW

11. 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.

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

Count 1: K.S.A. 65-1120(a)(7), willfully and repeatedly violation provisions of the Kansas Nurse Practice Act by failing to complete the requirements of impaired provider program KAR 60-3-110(s).

POLICY STATEMENT

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

DISPOSITION

14. By entering into the Initial Agreed Order and consenting to the entry of the Initial 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.

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

16. The Kansas State Board of Nursing will grant the applicant's request relief from the suspension and 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 will have limitations on her license
- (b) Respondent will not practice in the following: unsupervised, agency, teach and/or home health care nursing positions.
- (c) Respondent shall send a money order for \$70 to the Board upon entering into their agreement to pay the cost of their action.
- (d) Respondent shall not violate the Kansas Nurse Practice Act during the duration of the agreement.
- (e) Respondent shall not violate the laws of the United States, of State, or of any political subdivision of any State during the term of their agreement. Traffic infractions shall not be considered violations of the law.
- (f) Respondent agrees to notify the Legal Division 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 their Initial Agreed Order. Respondent

further acknowledges and agrees that to provide the Board with false information regarding compliance with the Initial Agreed Order is a violation of the Initial Agreed Order.

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 their Final Order and Consent Agreement, but Respondent could not contest the violations listed in their agreement.

20. All parties understand that if an action based on failure to meet the conditions and requirements of their Final Order and 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 her or her attorney, if any, in reference to the action.

21. Respondent acknowledges and agrees that if any action based on failure to meet the conditions and requirements of their Initial Agreed Order is filed during the term of the Initial Agreed Order, or within 30 days after the expiration date, the conditions of their Initial Agreed Order shall continue in effect until the Board or a hearing/presiding officer designated pursuant to K.S.A. 77-514 and K.S.A. 77-526, rules on the action.

22. The Board will inactivate the case file once respondent satisfies the agreement. The 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 their agreement is entered into.

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

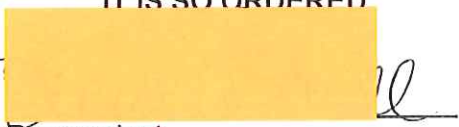
24. After successful completion of all of the conditions and requirements of the Initial Agreed Order by the respondent, the Initial Agreed Order will be satisfied and the case will be inactivated.

25. By signing the Initial Agreed Order, Respondent acknowledges that Respondent has read and understands the entire document, and agrees to be bound by its terms. The Initial Agreed Order constitute the entire agreement of the parties and may not be modified except in writing and approved by all parties. The effective date of the Initial Agreed Order is the date shown on the certificate of service.

26. 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.

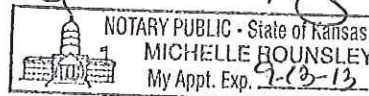
IN WITNESS WHEREOF, the parties hereto execute the INITIAL AGREED ORDER.


IT IS SO ORDERED


Respondent
Denise Marie Brull
1501 220th Ave
Hays, Kansas 67601
Respondent


Michael R. Fitzgibbons #12207
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

must sign before a Notary Public.




Sandra Sharon, Presiding Officer

Pursuant to K.S.A. 77-527, either party may request a review of the final order by filing a petition for reconsideration with the Kansas State Board of Nursing. A petition for reconsideration must be filed with 15 days from the date the final order was served. Failure to timely request a

reconsideration by the Kansas State Board of Nursing may preclude further judicial review. The petition for reconsideration shall be mailed or personally delivered to: Mary Blubaugh, Executive Director, Board of Nursing, Landon State Office Building, Suite 1051, 900 SW Jackson, Topeka, KS 66612-1230.


Pursuant to K.S.A. 77-531, if the final order is served by mail, three days are added to the time limits set out above.

Pursuant to K.S.A. 77-530, if a request for reconsideration is not requested in the time and manner stated above, the initial order shall become effective as a final order 30 days after service.

CERTIFICATE OF SERVICE

On the ^{and} 13 day of ~~September~~ ^{October}, 2013, I mailed a copy of the INITIAL AGREED ORDER:

Denise Marie Brull
1501 220th Ave
Hays, Kansas 67601


Michael R. Fitzgibbons, #12287
Assistant Attorney General