

Rex G. Beasley #08777
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson, Suite 551-S
Topeka, Kansas 66612-1230

BEFORE THE KANSAS STATE BOARD OF NURSING
LANDON STATE OFFICE BUILDING
900 S.W. JACKSON, #551-S
TOPEKA, KANSAS 66612-1230
785 296-8401

IN THE MATTER)
)
OF)
)
KIMBRA ROSENBERG)
LICENSE NO. 13-052438-071 ARNP 74245)

Case No: 98-0064-4
97-0293-4

FINAL ORDER

COMES NOW the Kansas State Board of Nursing, by and through its designated Hearing Officer and, based the parties Consent Agreement and makes the following findings of fact, and conclusions of law, and enters the following Final Order:

1. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter.
2. Respondent has expressly, and voluntarily waived all further procedural steps, including but not limited to any rights to seek judicial review and has entered into a Consent Agreement with Petitioner and agreed to the entry of this Final Order.
3. The stipulations of fact in the Consent Agreement signed by the parties are adopted as true and incorporated herein by reference. The terms and conditions of the Consent Order are fair and reasonable and approved.

4. The stipulations and other provisions of the Consent Order disclose that Respondent has violated the Kansas Nurse Practice Act for which disciplinary action must be taken.

5. Pursuant to the disciplinary remedies available in K.S.A. 65-1120, and by agreement of the parties, Respondent's license should be and then simultaneously **suspended** through the period of licensure, July 31, 1999. The suspension should be stayed, allowing the Respondent to continue to practice under the following terms and conditions:

(a) Respondent must provide the Board with the evidence of a current evaluation for addictive behavior, and provide the Board with copies of any future evaluations. Respondent must advise the Board of the date of all evaluations and the name and address of the person doing the evaluation. Said notice must be given to the Board within 48 hours of the evaluation. Reports must be provided to the Board within 14 business days of the evaluation

(b) Respondent must enroll in and comply with all the requirements of the Kansas Nurse Assistance Program. Respondent's must comply with all the recommendations and requirements of the program. It is the Respondent's obligation to enroll and meet all the requirements of the program.

(c) Respondent must submit to random drug screens at least quarterly as determined or selected by the Board and also by the Kansas Nurse Assistance Program. The costs of the drug screens shall be paid by the Respondent. The drug screens must be random and meet all criteria established by the Board. The Board may select and must approve the collector. The results of any drug screen specifically requested by the Board shall be sent directly to the Board.

(d) Respondent must abstain from the use of all alcohol and controlled substances except as prescribed for her by a licensed medical provider from whom she seeks medical attention. Respondent shall not seek or obtain any medication from Dr. Snodgrass or his office. Respondent shall inform all providers who authorize prescriptions for narcotics, mood altering drugs, or other pain relief for her of her dependency on controlled substances and Respondent shall cause all such providers to submit written reports within ten (10) days of each prescription to the Board. The written reports shall identify the medication prescribed, the reason for the prescription, the dosage, the date of prescription, and the number of refills authorized.

(e) Respondent shall notify all employers of this Agreement and shall cause her employer(s) to provide quarterly reports for the period of her licensure. The reports shall be prepared by Respondent's immediate supervisor or by an R.N. who evaluates her performance on a regular basis. Such reports shall include information regarding attendance, performance and documentation. The quarterly reports shall be due, October 20, 1998, January 20, 1999, April 20, 1999, and July 20, 1999. If Respondent is not employed as a nurse for a period of time included in this schedule she shall immediately inform the Board. Respondent's employer may submit copies of employee evaluations conducted during a quarter in lieu of a report for that quarter. These reports or evaluations shall be sent by the employer or person conducting the evaluation to the attention of the Board's Practice Specialist, Kansas State Board of Nursing, Landon State Office Building, 900 S.W. Jackson, Suite 551-S, Topeka, Kansas 66612-1230.

(f) Respondent shall comply with all laws and regulations governing the practice of nursing.

(g) Respondent shall sign any release(s) necessary so that all, reports, tests, or evaluations may be forwarded to the Kansas State Board of Nursing to the attention of the

Board's Practice Specialist. In addition, upon request the Respondent shall provide the Board with any release necessary to confirm that Respondent remains drug and alcohol free. The revocation of any release will be a breach of this agreement.

(h) Respondent shall notify the Board's Practice Specialist of the name of her employer and immediate supervisor within fourteen (14) calendar days from the signing of the Agreement and within fourteen (14) calendar days of any change of employment or change in immediate supervisor.

(i) Respondent shall notify the Board's Practice Specialist of any changes in her name, address, and phone number as well as all employment terminations or employer changes or additions. All such notifications shall be made within fourteen (14) calendar days of such a change.

(j) Respondent shall immediately notify the Board of any use of alcohol or controlled substances.

(k) Respondent shall not carry keys for, or have access to, storage areas for narcotics or mood altering drugs. Respondent shall not write out or call in any prescriptions for narcotics or mood altering drugs.

(l) Respondent shall receive new license card which shall be issued with an "S" and an "L" placed in the status code portion of the license card to indicate that action has been taken against her license.

9. Any further use of alcohol or controlled substances by Respondent, except as specifically allowed herein shall not only be a violation of this order and the parties agreement, but also independent grounds for additional discipline pursuant to K.S.A. 65-1120, and may, at the sole discretion of the Board, constitute conclusive and irrefutable proof that she should not be

licensed to practice nursing and will justify immediate action to revoke or suspend her license to practice nursing. Within 48 hours of any request, Respondent shall surrender her license to the Board if the Board, after any investigation, determines that she has violated the terms and conditions of this agreement. If Respondent fails to surrender her license to the Board within 48 hours of a request as provided above, the Board will be authorized and justified in taking emergency action against her pursuant to K.S.A. 77-537. Furthermore, in the event the Board should move for an order lifting the stay the only issue will be whether Respondent has strictly complied with every term and condition herein.

10. The signed original of this Agreement shall remain in the custody of the Board as a public record.

11. This is a disciplinary action and will be reported to the National Council of State Boards of Nursing data bank.

12. In deciding to enter into this agreement the Respondent relied upon her own knowledge and judgment and that of her attorney and did not rely on any statement, representation or promise from the Board or anyone acting on its behalf

13. Any unsatisfactory reports from the Kansas Nurse Assistance Program, by Respondent's supervisor in nursing, or any reports of a reportable incident under Risk Management Law, or a violation of the Kansas Nurse Practice Act, or failure to comply with any of the conditions of this Agreement may, at the sole discretion of the Board, constitute a breach of this Agreement and may result in further proceedings against respondent under the Kansas Administrative Procedures Act.

14. Each and every condition outlined in the Agreement and this order is mandatory and if Respondent fails to meet any one of the conditions the Board may proceed to cause a

petition or other proceedings to be filed in this matter and that a full adjudicative proceeding will follow, and Respondent may be fined and her license may be denied, suspended, limited, revoked, pursuant to K.S.A. 65-1120 or K.S.A. 74-1110.

15. All stipulations, agreements and admissions made in the Agreement are binding upon the Respondent in the event it is necessary to hold any further hearing in these or any other proceedings.

16. Nothing contained in this agreement will grant Respondent any right to license renewal.

17. Nothing in this order or the parties Agreement shall be construed to deny the Board jurisdiction to investigate other alleged violations of the Nurse Practice Act regardless of when received.

18. Respondent shall be responsible for payment of any costs associated with compliance with this order and the parties Agreement.

19. Consistent with the intent of the parties that their agreement apply to the next licensing period, any further license granted to Respondent shall be subject to the same terms, limitations and conditions contained herein. At the time of any renewals the parties shall enter into an agreed order containing the same terms and conditions as contained herein.

20. Each and every term and condition imposed herein is mandatory and Respondent is required to comply with each and every one. An express or implied waiver of one or more conditions shall not operate as a waiver of any other nor constitute an estoppel or bar to the enforcement of any other term or condition of this agreement. Respondent shall insure that all reports required to be submitted to the Board, including those from her employer or other third party are submitted in a timely manner.

21. Nothing in this Order or the Consent Agreement constitute a waiver of the Board's right to take action against Respondent for any act or omission not specifically made a part of the parties Consent Agreement or this order.

24. Respondent shall pay costs in the sum of \$70.00 and an administrative fine of \$1,000.00 pursuant to K.S.A. 74-1100. Said payments shall be made to the Board in cash or money order and shall be paid within 60 days of the entry of the Final Order.

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

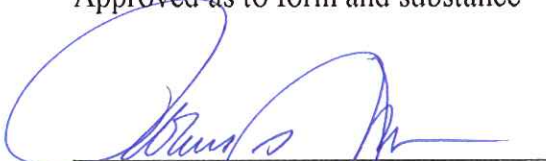
IT IS SO ORDERED.

Dated this 8th day of September, 1998

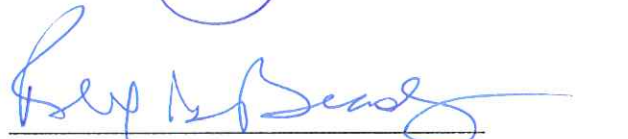


TERRY E. BECK
HEARING OFFICER

Approved as to form and substance



ROBERT S. JONES
Attorney for Respondent



REX. G. BEASLEY
Assistant Attorney General Disciplinary Counsel

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Consent Agreement and Final Order were served by depositing same in the United States Mail, first class postage prepaid, this 9th day of September, 1998 to:

**Kimbra Rosenberg
623 W 6th
Larned, Kansas 67550**

**Robert S. Jones
Norton Wasserman Jones and Kelly
PO Box 2388
Salina, Kansas 67402-2388**

and hand delivered a copy to

**Rex G. Beasley
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson Suite 551-S
Topeka, Kansas 66612-1230**



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

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KIMBRA ROSENBERG)
LICENSE NO. 13-052438-071 ARNP 74245)

Case No: 98-0064-4
97-0293-4

CONSENT AGREEMENT

COME NOW the Petitioner, the Kansas State Board of Nursing, hereinafter referred to as the "Board", by and through Assistant Attorney General Rex G. Beasley, and the Respondent, Kimbra Rosenberg personally and by and through her attorney Robert S. Jones, with the intent and purpose of settling all issues currently before the Board without the necessity of a formal hearing, and respectfully request that the Board, or its designee, approve this Consent Agreement and enter the Final Order presented as the resolution in this case.

STIPULATION OF FACTS AND AGREEMENT

In lieu of proceeding to a full administrative hearing, the parties agree to enter into and be bound by the following admissions and stipulations, and this agreement.

1. Respondent is licensed to practice as a registered professional nurse (R.N.) in the State of Kansas, having been issued license number 13-052438-071, and as an advanced nurse

practitioner with certificate no 74245; both with an expiration date of July 31, 1997. Respondent timely submitted her renewal application and has been authorized to practice as a nurse until this matter is resolved.

2. The Board received information and conducted investigations into whether Respondent violated the Kansas Nurse Practice Act and is competent to practice nursing. Based on those investigations the Board's investigative committee found there are reasonable grounds to believe Respondent violated the Kansas Nurse Practice Act and that under some circumstances is not competent to practice nursing. The Board, by and through its committee, referred these matters for disciplinary action.

3. Respondent is aware she has certain rights in these matters which may include the right to a formal hearing; the right to see and hear the evidence against her and to cross-examine witnesses against her; the right to present witnesses and evidence on her behalf; and the right to seek reconsideration, review or appeal of the findings from the hearings in these matters. Respondent knowingly and intelligently waives, or gives up, her rights and enters into this agreement to resolve these matters instead of proceeding to hearings.

4. Respondent has received a copy of the Petitions, which were mailed to her at her last address known to the Board. Respondent acknowledges and agrees that the Petitions are on file. Respondent is aware of the factual and documentary information supporting the allegations of the Petitions and stipulates and agrees that the allegations in the Petitions are true.

5. Respondent is aware that this Consent Agreement and the Final Order will affect the Respondent's license to practice as a registered professional nurse (R.N.) in Kansas.

6. By entering into this Consent Agreement and consenting to the entry of the 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 and to judicial review.

7. Respondent acknowledges and agrees that this Consent Agreement and the Final Order are not intended to be, nor will they will operate as, a waiver or estoppel of the Board's right to take action against Respondent for any act or omission not specifically made a part of this agreement.

8. Pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that Respondent's license should be renewed and then simultaneously suspended through the period of licensure, July 31, 1999. The parties further agree, however that the suspension should be stayed, allowing the Respondent to continue to practice under the following terms and conditions:

(a) Respondent must provide the Board with the evidence of a current evaluation for addictive behavior, and provide the Board with copies of any future evaluations. Respondent will advise the Board of the date of all evaluations and the name and address of the person doing the evaluation. Said notice will be given to the Board within 48 hours of the evaluation. Reports will be provided to the Board within 14 business days of the evaluation

(b) Respondent must enroll in and comply with all the requirements of the Kansas Nurse Assistance Program. Respondent's must comply with all the recommendations and requirements of the program. It is the Respondent's obligation to enroll and meet all the requirements of the program.

(c) Respondent must submit to random drug screens at least quarterly as determined or selected by the Board and also by the Kansas Nurse Assistance Program. The

costs of the drug screens will be paid by the Respondent. The drug screens must be random and meet all criteria established by the Board. The Board may select and must approve the collector. The results of any drug screen specifically requested by the Board will be sent directly to the Board.

(d) Respondent must abstain from the use of all alcohol and controlled substances except as prescribed for her by a licensed medical provider from whom she seeks medical attention. Respondent may not seek or obtain any medication from Dr. Snodgrass or his office. Respondent shall inform all providers who authorize prescriptions for narcotics, mood altering drugs, or other pain relief for her of her dependency on controlled substances and Respondent shall cause all such providers to submit written reports within ten (10) days of each prescription to the Board. The written reports shall identify the medication prescribed, the reason for the prescription, the dosage, the date of prescription, and the number of refills authorized.

(e) Respondent shall notify all employers of this Agreement and shall cause her employer(s) to provide quarterly reports for the period of her licensure. The reports shall be prepared by Respondent's immediate supervisor or by an R.N. who evaluates her performance on a regular basis. Such reports shall include information regarding attendance, performance and documentation. The quarterly reports shall be due, October 20, 1998, January 20, 1999, April 20, 1999, and July 20, 1999. If Respondent is not employed as a nurse for a period of time included in this schedule she shall immediately inform the Board. Respondent's employer may submit copies of employee evaluations conducted during a quarter in lieu of a report for that quarter. These reports or evaluations shall be sent by the employer or person conducting the evaluation to the attention of the Board's Practice Specialist, Kansas State Board of Nursing, Landon State Office Building, 900 S.W. Jackson, Suite 551-S, Topeka, Kansas 66612-1230.

(f) Respondent shall comply with all laws and regulations governing the practice of nursing.

(g) Respondent agrees to sign any release(s) necessary so that all, reports, tests, or evaluations may be forwarded to the Kansas State Board of Nursing to the attention of the Board's Practice Specialist. In addition, upon request the Respondent will provide the Board with any release necessary to confirm that Respondent remains drug and alcohol free. The revocation of any release will be a breach of this agreement.

(h) Respondent agrees to notify the Board's Practice Specialist of the name of her employer and immediate supervisor within fourteen (14) calendar days from the signing of this Agreement and within fourteen (14) calendar days of any change of employment or change in immediate supervisor.

(i) Respondent agrees to notify the Board's Practice Specialist of any changes in her name, address, and phone number as well as all employment terminations or employer changes or additions. All such notifications shall be made within fourteen (14) calendar days of such a change.

(j) Respondent shall immediately notify the Board of any use of alcohol or controlled substances.

(k) Respondent shall not carry keys for, or have access to, storage areas for narcotics or mood altering drugs. Respondent will not write out or call in any prescriptions for narcotics or mood altering drugs.

(l) Respondent shall receive new license card which shall be issued with an "S" and an "L" placed in the status code portion of the license card to indicate that action has been taken against her license.

9. Respondent admits and agrees that any use by her of alcohol or controlled substances, except as specifically allowed herein will not only be a violation of this agreement, but also independent grounds for additional discipline pursuant to K.S.A. 65-1120, and may, at the sole discretion of the Board, constitute conclusive and irrefutable proof that she should not be licensed to practice nursing and will justify immediate action to revoke or suspend her license to practice nursing. Respondent agrees that within 48 hours of any request, she will surrender her license to the Board if the Board, after any investigation, determines that she is has violated the terms and conditions of this agreement. Respondent further agrees that, if she fails to surrender her license to the Board within 48 hours of a request as provided above, the Board will be authorized and justified in taking emergency action against her pursuant to K.S.A. 77-537. Furthermore, in the event the Board should move for an order lifting the stay the only issue will be whether Respondent has strictly complied with every term and condition herein.

10. It is understood that this agreement is subject to the approval of the Board. Should the Board, or its designee, modify or change the agreement in any manner unsatisfactory to either party, or disapprove it, either party may withdraw its consent and this document, and all agreements herein shall be void, and the matter will proceed to hearing.

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

12. Respondent is aware that this is a disciplinary action and will be reported to the National Council of State Boards of Nursing data bank.

13. In deciding to enter into this agreement the Respondent relied upon her own knowledge and judgment and did not rely on any statement, representation or promise from the Board or anyone acting on its behalf

14. Respondent understands that any unsatisfactory reports from the Kansas Nurse Assistance Program, by her supervisor in nursing, or any reports of a reportable incident under Risk Management Law, or a violation of the Kansas Nurse Practice Act, or failure to comply with any of the conditions of this Agreement may, at the sole discretion of the Board, constitute a breach of this Agreement and may result in further proceedings against respondent under the Kansas Administrative Procedures Act.

15. Respondent further understands that each and every condition outlined in this Agreement is mandatory and if she fails to meet any one of the conditions the Board will proceed to cause a petition or other proceedings to be filed in this matter and that a full adjudicative proceeding will follow. Respondent further understands that as a result she may be fined and her license may be denied, suspended, limited, revoked, pursuant to K.S.A. 65-1120 or K.S.A. 74-1110.

16. It is agreed by the parties that, once approved, all stipulations, agreements and admissions made herein are binding upon the Respondent in the event it is necessary to hold any further hearing in these or any other proceedings.

17. Both parties agree that this Agreement will take effect upon the date of the signature of the Assistant Attorney General and will be subject to the laws of the State of Kansas.

18. Respondent acknowledges and agrees that nothing contained in this agreement will grant her any right to license renewal.

19. By signing this agreement, Respondent acknowledges that she has read and understands the entire document, and agrees to be bound by its terms. This agreement constitutes the entire agreement of the parties and may not be modified except in writing and approved by all parties.

20. Nothing in this document shall be construed to deny the Board jurisdiction to investigate other alleged violations of the Nurse Practice Act regardless of when received.

21. Respondent will be responsible for payment of any costs associated with compliance with this agreement.

22. Respondent will pay costs in the sum of \$70.00 and an administrative fine of \$1,000.00 pursuant to K.S.A. 74-1100. Said payments shall be made to the Board in cash or money order and shall be paid within 60 days of the entry of the Final Order.

23. Respondent acknowledges that each and every term and condition imposed herein is mandatory and that she is required to comply with each and every one. An express or implied waiver of one or more conditions shall not operate as a waiver of any other nor constitute an estoppel or bar to the enforcement of any other term or condition of this agreement. Respondent understands that it is her responsibility to insure that all reports required to be submitted to the Board, including those from her employer or other third party are submitted in a timely manner.

24. It is the intent of the parties that this agreement apply to the next licensing period. Accordingly, Respondent agrees and consents that any future license may be granted subject to the same terms, limitations and conditions contained herein.

IN WITNESS WHEREOF, the parties hereto execute this Consent Agreement and request that a Final Order be entered.

Kimbra A. Rosenberg
KIMBRA ROSENBERG
Respondent

DATE August 25, 1998

STATE OF KANSAS

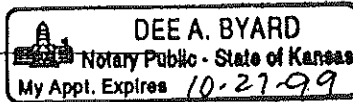
SS

COUNTY OF SHAWNEE

Subscribed and Sworn to before me, this 25TH day of August, 1998.

Dee A. Byard
Signature of Notary Public

My commission expires on _____



APPROVED:

Robert S. Jones
Robert S. Jones
Norton Wasserman Jones and Kelly
215 Santa Fe
Salina, Kansas
Attorneys for Respondent

DATE August 25, 1998

Rex G. Beasley
REX G. BEASLEY
Assistant Attorney General Disciplinary Counsel

DATE August 25, 1998