

**BEFORE THE KANSAS STATE BOARD OF NURSING**

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

**FILED**

**AUG 31 2010**

**IN THE MATTER OF  
BOBBI J. GUERRERO  
License No. 13-057395-121**

**KSBN**

**Case No. 04-483-8  
OAH No. 09BN0015**

**SUMMARY ORDER**

Now this 31<sup>st</sup> day of August, 2010, 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 proposes to find facts and take disciplinary action against the licensed practical nurse license of Bobbi J. Guerrero, (Licensee) by way of Summary Order as provided by K.S.A. 77-537.

**FINDINGS OF FACT**

1. (a) Licensee is licensed to practice nursing in the state of Kansas as a registered nurse through 12/31/2011. The Board has jurisdiction over the Licensee and the subject matter of this action.
- (b) Licensee's address of record is 1127 Druid Lk., Decatur, Georgia 30033.
- (c) On or about 7/21/2008, Licensee entered a Consent Agreement and Final Order (Consent Agreement), with Board to resolve case number 04-483-8. The effective date of the Consent Agreement was 7/21/2008. The Consent Agreement remains in effect until such time as the Licensee completes all conditions and requirements of the Consent Agreement. Licensee has not completed all the conditions and requirements of the Consent Agreement.
- (d) Pursuant to the 7/21/2008 Consent Agreement, Licensee's license to practice nursing in Kansas was suspended. The suspension was stayed so long as Licensee continued to meet the conditions and requirements of the Consent Agreement.
- (e) Conditions of the Consent Agreement included a condition that the Licensee have a narcotic key restriction on her nursing license for six (6) months after entering this Consent Agreement and Final Order. The narcotic key restriction prohibits the (Licensee) from passing of narcotics, wasting of narcotics or having access to narcotics. Licensee also agreed to immediately inform all employers and prospective employers of this Consent Agreement and the Final Order.
- (f) On or about 9/25/2009 Licensee contacted the Board and asked that her case be inactivated because she claimed to have been compliant with the Consent Agreement and Final Order dated 7/21/2008. Licensee has failed to provide proof of compliance with the conditions listed above. The Board by letters dated October 23, 2009 and May 12, 2010 requested the Licensee supply a letter from her employers stating she did not pass, waste or have access to narcotics for the first six months after she entered the 7/21/2008 Consent Agreement and Final Order. Licensee has failed to respond or to supply the requested

information. Both letteres were mailed to the address she supplied in the 9/25/2009 letter from the Licensee. By failing to comply with the Board request for proof of compliance with the 7/21/2008 Consent Agreement and Final Order, Licensee has violated the 7/21/2008 Consent Agreement.

(g) Pursuant to the Consent Agreement should the Stay of Suspension be lifted due to a finding of non-compliance with the Consent Agreement, the Suspension will not again be Stayed until the Licensee has, following the prescribed time period of suspension, provided written verification to the Board that Licensee is in compliance with all conditions and requirements of the Consent Agreement.

### CONCLUSIONS OF LAW

2. Pursuant to K.S.A. 65-1120(a), the Kansas State Board of Nursing may deny, revoke, limit or suspend any license, certificate of qualification or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or as a registered nurse anesthetist that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a certificate of qualification or authorization, if the applicant, licensee or holder of a certificate of qualification or authorization is found to have violated the Nurse Practice Act. The above fact findings establish evidence that the applicant violated the following provisions of the Nurse Practice Act:

(a) K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(r), failing to comply with any disciplinary order of the board.

3. Licensee's conduct described herein violates the Kansas Nurse Practice Act.

4. Licensee's conduct described herein violates the Consent Agreement in case number 04-483-8, dated 7/21/2008.

5. K.S.A. 77-511(a)(2)(A) of the Kansas Administrative Procedure Act authorizes the use of summary proceedings by a state agency if the use of summary proceedings does not violate any provision of law, the protection of the public interest does not require the state agency to give notice and an opportunity to participate to persons other than the parties, and the state agency believes in good faith, after investigation of the facts, that the allegations will be supported to the applicable standard of proof.

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

### **IT IS THEREFORE ORDERED BY THE KANSAS STATE BOARD OF NURSING THAT**

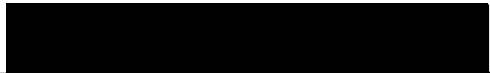
1. **The Stay of Suspension is lifted from Licensee's license due to a finding of non-compliance with Consent Agreement and Final Order in case number 04-483-8, dated 7/21/2008.**

2. **Licensee's license to practice nursing in the state of Kansas is suspended for a period of six (6) months beginning on the effective date of this summary order, and the Suspension will not again be Stayed until the Licensee has, following the prescribed time period of suspension, provided written verification to the Board that Licensee is in compliance with all conditions and requirements of the Consent Agreement.**

**3. Licensee shall not practice nursing in the state of Kansas until the suspension has again been stayed.**

Pursuant to K.S.A. 77-537, this decision, which is called a Summary Order, is subject to your request for a hearing. If you desire a hearing, you must submit or direct a written request for hearing to: Kansas State Board of Nursing, Legal Division, 900 SW Jackson, Suite 1051, Topeka, Kansas 66612-1230, (785) 296-4325. THIS REQUEST MUST BE SUBMITTED WITHIN FIFTEEN (15) DAYS FROM THE DATE OF THIS ORDER. If a hearing is not requested in the time and manner stated, this Summary Order becomes effective as a final order, without further notice, upon the expiration of the time for requesting a hearing. If a hearing is requested, the prior issuance of a summary order shall not affect the burden of proof.

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

  
Janet Jacobs, LPN  
Investigative Committee, Chair  
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

I certify that on the 31<sup>st</sup> day of August, 2010, the foregoing copy of the Summary Order was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Bobbi J. Guerrero  
1127 Druid Lk.  
Decatur, Georgia 30033



Alma A. Heckler, #11555  
Assistant Attorney General

RECEIVED  
2010 AUG 31  
FEDERAL BUREAU OF INVESTIGATION  
U.S. DEPARTMENT OF JUSTICE

FILED - OAH  
21 JUL '08 PM 3:29  
FILED

BEFORE THE KANSAS STATE BOARD OF NURSING

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

JUL 22 2008

KSBN

IN THE MATTER OF  
BOBBI J. GUERRERO  
License No. 13-057395-121

Case No. 04-483-8

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 21 day of July, 2008, the Kansas State Board of Nursing, represented by Assistant Attorney General, Mark A. Knight, and the Respondent, Bobbi J. Guerrero, represented by Joseph P. Huerter, 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 is licensed to practice nursing in Kansas lapsed. Respondent submitted an application for reinstatement of her license. 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 1023 SW 16<sup>th</sup> St., Topeka, KS 66604.
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) On or about 4/5/2005, Respondent's license to practice nursing in the state of Kansas was suspended indefinitely. The 4/5/2005 Order of Indefinite Suspension of License, the Hearing Officer made the following findings of fact:

3. The respondent has several past cases with the board, in Case 96-037-8 her license was suspended for 60 days for forging Demerol prescriptions, in Case 97-018-8 she worked on a suspended license and was fined and suspended for 90 days. In Case 99-610-8 she was found to have diverted Demerol and was suspended with a stay as long as she was compliant with [REDACTED]. In case 03-396-8 licensee completed CNES by letter agreement for passing controlled substances while on a key restriction.

4. On November 11, 2004 the license was temporarily suspended and she was fined \$270 for violating the September 24, 2004 temporary suspension order for working on a suspended license, in direct violation of an order to suspend her practice, the licensee was assessed an administrative fine of \$270, this is approximately half of the wages she earned on the suspension. This amount is payable to the board within one year of 11/1/2004. The previous limitation (to work only at Kansas Dialysis Center) remained in effect once she the suspension was completed.

5. This proceeding is based upon the allegation of petitioner, the board, that the respondent had been terminated at the Kansas Dialysis Center on December 29, 2004, and had failed to inform the hearing officer of this termination at the hearing held on January 25, 2005 when it was determined that respondent would set up a random urine drug screening program independent of the [REDACTED].

6. The petitioner withdrew the allegation of having a positive UDS on 3/22/05 for Tramadol and stated that the monitor, Larry Huey had indicated on 4/5/2005 that the licensee had a prescription for this drug. This is documented in Petitioner's Exhibit 3, a letter from Larry Huey to Betty Wright dated April 4, 2005.

7. The respondent testified that she had been terminated on December 29, 2005. The Kansas Dialysis Center's record of the termination were admitted to the record as Petitioner's Exhibit 1. The licensee testified that she had performed a nursing function, by accessing a patient's neck-line, and so admitted to practicing nursing while her license was suspended, this unlicensed practice of nursing was the reason for her termination at the Kansas Dialysis Center. The respondent admitted that she was aware of the termination when the hearing was held on January 25, 2005, however, she did not testify at the hearing. The hearing officer finds that she was not untruthful, but did omit describing her circumstances as being terminated from the only facility where she could use her nursing license. The licensee described that she was hopeful that the order would include any facility that was a dialysis center, however, the hearing officer stated that he had specifically limited her to the Kansas Dialysis Center for her own protection, and that this was the clear intention of the order. The licensee introduced in to the record as Respondent's Exhibit 1, the Monitoring Agreement for Bobbi J. Guerrero signed by the licensee and Larry L. Huey on 2/21/2005.

(b) On or about 12/31/2005, Respondent's license to practice nursing in Kansas lapsed.

(c) On or about 1/5/2006, Respondent submitted an application for reinstatement of her license to practice nursing in Kansas.

(d) On or about December of 2006, Larry L. Huey, LSCSW, provided documentation that Respondent participated in a monitoring program through Heartland Clinical Consultants.

The information provided by Larry L. Huey showed Respondent began the monitoring program in February of 2005. Mr. Huey advised the program consisted of monthly meeting as well as drug screens. Mr. Huey advised Respondent's participation in the program was without violation. Mr. Huey advised Respondent was working outside the nursing profession and had been accepted into Medical School with a proposed start date of January 2007.

(e) Respondent has not participated in any further monitoring or treatment since leaving the Heartland program.

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: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(r), failing to comply with any disciplinary order of the board.

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)(6), unprofessional conduct by K.A.R. 60-3-110(r), failing to comply with any disciplinary order of the board.

#### 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 shall return his or her current license card to the Board with this Consent Agreement. Respondent shall receive a license card which shall be issued with an "S" placed in the status code portion of the license card to indicate that the license is suspended with a Stay. The card will have an "L" indicating the limitations on the practice.

(b) Respondent shall have a narcotic key restriction on her nursing license for six (6) months after entering this Consent Agreement and Final Order. The narcotic key restriction prohibits the Respondent from passing of narcotics, wasting of narcotics or having access to narcotics. The narcotic key restriction also prohibits the Respondent from supervising nurses or others that have access to narcotics.

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

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

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

(f) 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 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. 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 and is a public record.

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.

Bobbi J. Guerrero  
Respondent  
P O Box 3885  
Topeka, KS 66604

Bobbi J. Guerrero must sign before a Notary Public.

State of Kansas, County of Aruba ss.  
SUBSCRIBED AND SWORN TO before, me by Bobbi J. Guerrero


on this 7<sup>th</sup> day of July, 2008.

 My Commission Expires 03-01-2020  
Signature of Notary Public (Notary Public Seal)




BOBBI J. GUERRERO - CONSENT AGREEMENT AND FINAL ORDER - Page 7

Received Time Jul. 16. 2:43PM



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Joseph P. Huerter *1/19/12*  
Counsel for Respondent  
1610 SW Topeka  
Topeka, KS 66612



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Mark A. Knight, #12183  
Assistant Attorney General  
Kansas State Board of Nursing  
Landon State Office Building  
900 SW Jackson #1051  
Topeka, KS 66612



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Sandra L. Sharon, Presiding Officer



CERTIFICATE OF SERVICE

On the 23<sup>rd</sup> day of July, 2008, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Bobbi J. Guerrero  
P O Box 3885  
Topeka, KS 66604

Joseph P. Huerter  
Counsel for Respondent  
1610 SW Topeka  
Topeka, KS 66612



Mark A. Knight, #12183  
Assistant Attorney General  
Kansas State Board of Nursing  
Landon State Office Building  
900 SW Jackson #1051  
Topeka, KS 66612