



Hearing Officer inquires if the Respondent has counsel and if she is aware she may obtain counsel for these proceedings. Respondent indicates she is aware she may obtain counsel, but has chosen not to obtain counsel.

The Hearing Officer then informs the Respondent that she has three options relating to the charges in the Petition: (1), She may deny the allegations and the matter will proceed to a full evidentiary hearing; (2), she may stipulate or admit to the allegations whereupon the hearing officer will make a finding that the Respondent has violated the Nurse Practice Act and the matter will proceed to disposition at which the Hearing Officer will decide what action to take against the Respondent's license; or, (3), she can neither admit nor deny the allegations, but not contest them, whereupon the Hearing Officer, after a proffer of evidence, will make a finding that the Respondent violated the Nurse Practice Act and the matter will proceed to disposition at which the Hearing Officer will decide what action to take against the Respondent's license. The Hearing Officer asks the Respondent if she understands her options. Respondent states that she does, and that she wants the second option, stipulating to the allegations in the Petition, specifically that she improperly delegated nursing functions to uncertified personnel. Based on the admission, the Hearing Officer finds as a matter of fact and law that the Respondent violated the Nurse Practice Act, as specified in the Petition.

The Hearing Officer asks the Petitioner for any statement regarding disposition. Petitioner states that the hospital who employed the Respondent has appropriately dealt with this matter in-house; and makes a recommendation to the Hearing Officer. The Hearing Officer inquires of the Respondent whether she has any statement to make regarding disposition. Respondent offers Respondent's Exhibit No. 1, a letter to who it may concern from Beverly White, R.N., Department Director SICU, HCA Wesley Medical Center, Respondent's supervisor. Petitioner has no objection and Exhibit No. 1 is admitted by the Hearing Officer. Respondent states she has learned from the experience; that no patient injury occurred; she has been counselled by two levels of supervision at the hospital; and that a future incident is not likely to occur. The Hearing Officer recesses the hearing for her deliberation in the matter.

After due deliberation, the matter is reconvened and the Hearing Officer, after considering all the testimony and evidence presented in this matter, issues the following findings of fact, conclusions of law and order.

#### FINDINGS OF FACT

1. Respondent was issued license number 13-062124-122, which expires December 31, 1994.
2. The Notice of Hearing and Petition in this matter were sent to the Respondent at her last address known to the Board by first class mail on March 9, 1994.

3. Respondent, after explanation, stipulated to the facts and violations stated in the Petition.

4. No patient injury occurred in this case, despite the bad judgement of the Respondent.

5. No willfulness has been shown in Respondent's conduct, but ignorance is no excuse in this matter.

6. In-house measures taken by Respondent's employer were made and are appropriate.

#### 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 implement any of the disciplinary options 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, specifically K.S.A. 65-1120(a)(6), unprofessional conduct as defined by K.A.R. 60-3-110(6) improperly assigning or delegating unqualified persons to perform functions of a licensed nurse contrary to the Kansas Nurse Practice Act or to the detriment of public safety.

6. Sufficient competent evidence has been presented to prove the violation of the Act.

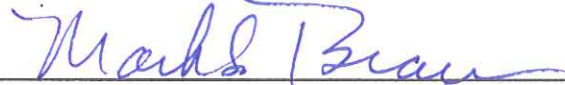
**ORDER**

IT IS THEREFORE ORDERED pursuant to K.S.A. 65-1120(a) and based on the violation of the Nurse Practice Act, the Respondent shall receive a letter of private censure from the Board. Respondent is advised that while the sanction is a private censure, such disciplinary action is a part of the Board's public action.

IT IS SO ORDERED.

  
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Helen R. Rice  
Hearing Officer

Prepared and Submitted by:

  
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Mark S. Braun  
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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

I, Helen R. Rice, Administrative Hearing Officer in this case, hereby certify that on the 16<sup>th</sup> day of May, 1994, I deposited a true and correct copy of the Nunc Pro Tunc Initial Order in the United States Mail, first class mail, postage prepaid to the following:

Diane Cole  
816 N Chautauqua  
Wichita, Kansas 67214

and

Mark S. Braun  
Assistant Attorney General  
Disciplinary Counsel  
Kansas State Board of Nursing  
900 S.W. Jackson Rm 551-S  
Topeka, Kansas 66612-1230

  
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HELEN R. RICE  
HEARING OFFICER