

BEFORE THE KANSAS STATE BOARD OF NURSING
LONDON STATE OFFICE BUILDING
900 S.W. JACKSON, ROOM 551-S
TOPEKA, KANSAS 66612-1230
913/296-8401

IN THE MATTER)
OF) Case No: 95-0529-4
ROBIN BROTHERTON)
LICENSE NO. 13-068430-081)

CONSENT AGREEMENT AND FINAL ORDER OF DISPOSITION

COMES NOW the Petitioner, the Kansas State Board of Nursing, hereinafter referred to as the "Board", by and through Assistant Attorney General Mark S. Braun, and the Respondent, Robin Brotherton by and through her attorney, Philip Unruh, attorney at law, Harper, Kansas counsel, and respectfully request the Board, or its designee, approve this Consent Agreement and Final Order as the disposition in this case.

By previous Order issued October 8, 1996, Respondent, with advice of counsel, stipulated to Counts I and II of the Petition. Count III was dismissed. There were findings of fact and conclusions of law by the Hearing Officer that the Respondent violated the Nurse Practice Act as to Counts I and II and the matter was continued for disposition.

AGREEMENT

It is the intent and purpose of this Consent Agreement and Final Order to provide for disposition of the violations found in Counts I and II of the Petition, without the necessity of a formal

hearing. Respondent, with the advice of counsel, knowingly and intelligently waived her right to a hearing on the issues currently before the Board relating to her license. The parties agree as follows:

1. In lieu of proceeding to a formal hearing, Respondent stipulated to Counts I and II of the Petition. Respondent, with the advice of counsel, understands that by stipulating to those counts, she admitted to violations of the Kansas Nurse Practice Act for which disciplinary action will be taken.

2. Pursuant to the disciplinary remedies available in K.S.A. 65-1120, Respondent will be publicly censured.

3. In addition, pursuant to K.S.A. 74-1110, Respondent is assessed a civil fine of two hundred fifty dollars (\$250.00). Said fine shall be paid by money order or cashier's check payable to the State of Kansas, and delivered to the Board of Nursing at the time this Consent Agreement and Final Order is submitted for approval to the Board's designated hearing officer or within thirty days of the date of service of the order upon the Respondent and her counsel. Said fine shall be deposited in the State's general fund.

4. In addition, pursuant to K.S.A. 65-1120(d), Respondent shall pay costs in the amount of thirty five dollars (\$35.00). Said costs shall be paid by money order or cashier's check at the time this Consent Agreement and Final Order is submitted for approval to the Board's Designated hearing officer or within thirty days of the date of service of the order upon the Respondent and her counsel.

5. By signing this Consent Agreement and Final Order, Respondent acknowledges she has read the entire document; that she has obtained counsel who advised her in this matter and that she is satisfied with the representation in this matter and agrees to be bound by this document.

6. Should the Board, or its designee, modify or change the Consent Agreement and Final Order in any manner unsatisfactory to either party, either party may withdraw its consent and the matter will proceed to hearing on disposition.

FINDINGS OF FACT

1. Respondent is licensed to practice as a registered professional nurse (R.N.) in the State of Kansas, having been issued license number 13-068430-081, with an expiration date of August 31, 199~~6~~⁷.

PwL
RB

2. The Board received information and conducted an investigation into alleged violations of the Kansas Nurse Practice Act by the Respondent.

3. The Board found there were reasonable grounds to believe Respondent violated the Kansas Nurse Practice Act.

4. The Hearing Officer has already made findings of fact and conclusions of law that Respondent violated the Kansas Nurse Practice Act. The Order from the October 8, 1996 teleconference hearing is hereby adopted and incorporated by reference as if fully set forth herein. Respondent stipulated to two violations of the Kansas Nurse Practice Act, for which disciplinary action is to be taken.

5. In lieu of proceeding to an administrative hearing on the issue of disposition, the parties have agreed to enter into and be bound by this Consent Agreement and Final Order.

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

CONCLUSIONS OF LAW

1. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter pursuant to K.S.A. 65-1120.

2. Respondent is represented by counsel. Through the advice of counsel, Respondent is aware of her rights under the United States and Kansas Constitutions, the Kansas Nurse Practice Act and the Kansas Administrative Procedures Act. Based on the knowledge of her rights and advice of counsel, Respondent has knowingly, intelligently, and voluntarily waived her rights and entered into this Consent Agreement and Final Order.

2. Respondent has stipulated and admitted to Counts I and II of the Petition. Based on those stipulations, Respondent has violated the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq.

4. Respondent is guilty of unprofessional conduct in that on or about April and May, 1995, she diverted for her own use a bottle of compazine from her hospital employer, in violation of K.S.A. 65-1120(a)(6), as defined K.A.R. 60-3-110(i).

5. Respondent is guilty of performing acts beyond the authorized scope of the level of nursing for which she is licensed

by determining her need to self administer compazine without a physician's order in violation of K.S.A. 65-1120(a)(6), as defined by K.A.R. 60-3-110(a).

6. The Petitioner and Respondent have entered into this Consent Agreement and Final Order which, when signed by both parties and the Board or its designee, will be binding on the parties and the Board.

7. The Respondent has committed acts in violation of the Kansas Nurse Practice Act, for which disciplinary action shall be taken. The disposition has been agreed to and submitted jointly by the parties.

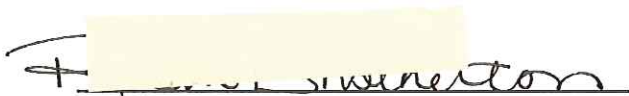
FINAL ORDER

WHEREFORE, based on the foregoing Agreement, Findings of Fact and Conclusions of Law, and the October 8, 1996 Order, IT IS THEREFORE ORDERED that the following action will be taken:


1. Pursuant to the disciplinary remedies available in K.S.A. 65-1120, Respondent will be **publicly censured**.
2. In addition, pursuant to K.S.A. 74-1110, Respondent is assessed a **civil fine of two hundred fifty dollars (\$250.00)**. Said fine shall be paid by money order or cashier's check payable to the State of Kansas, and delivered to the Board of Nursing at the time this Consent Agreement and Final Order is submitted for approval to the Board's designated hearing officer or within thirty days of the date of service of the order upon the Respondent and her counsel. Said fine shall be deposited in the State's general fund.

3. In addition, pursuant to K.S.A. 65-1120(d), Respondent shall pay costs in the amount of thirty five dollars (\$35.00). Said costs shall be paid by money order or cashier's check at the time this Consent Agreement and Final Order is submitted for approval to the Board's Designated hearing officer or within thirty days of the date of service of the order upon the Respondent and her counsel.


IN WITNESS WHEREOF, the parties hereunto execute this Consent Agreement and Final Order:


Robin Brotherton
Respondent

1-6-97
DATE


Phil Unruh
Attorney for the Respondent

1-6-97
DATE



MARK S. BRAUN
Assistant Attorney General
Board Disciplinary Counsel

1-7-97
DATE

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

IT IS SO ORDERED.

Dated this 8th day of January, 1997


Board Representative or
Board Designee

CERTIFICATE OF SERVICE

This is to certify that on the 8th day of January, 1997, I deposited a true and correct copy of the Consent Agreement and Final Order in the United States Mail, first class mail, postage prepaid to the following:

Robin Brotherton
525 S Lincoln
Anthony, Kansas 67003

Philip W. Unruh
Attorney at Law
1216 Central
Harper, Kansas 67058-1313

and by hand delivery to:

Mark S. Braun
Assistant Attorney General
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