



is waiving that right and wishes to proceed without counsel. The Hearing Officer asks both sides if they are ready to proceed. Both sides indicate they are ready.

The Hearing Officer advises the Respondent that there is one violation alleged in the Petition and inquires if she understands the charge. Respondent states she understands it. The Hearing Officer advises the Respondent she may either admit or deny the allegations contained in the Petition. If Respondent denies the allegations, the matter will be set for hearing in which the Petitioner will have to prove, through witnesses and evidence, that the Respondent committed the act(s) complained of in the Petition. The Respondent will have the opportunity to cross-examine the Petitioner's witnesses, as well as the opportunity to present witnesses and evidence on her own behalf. If Respondent admits the allegations, there will be no hearing. Based on the admission, the Hearing Officer will make a finding that the Respondent committed the act(s) complained of and that Respondent has violated the Kansas Nurse Practice Act as specified in the Petition. The matter will then proceed to disposition to determine and impose the appropriate discipline for the violation.

The Hearing Officer inquires of the Respondent if she understands her options regarding the allegations. Respondent states that she understands her options. The Hearing Officer inquires of the respondent whether she admits or denies the violation charged. Respondent admits the violation, but explains to the Hearing Officer that the patient had been physically abusive

to her and to other staff in the past, and that she was afraid of this patient. Respondent further adds that she had tried to get away from this patient.

Based upon the Respondent's admission to the violation, the Hearing Officer makes the following findings of fact and conclusions of law.

#### FINDINGS OF FACT

1. Respondent was issued license number 13-070118-052, which expires May 31, 1996.

2. The Notice of Proceedings and Petition in this matter were sent to the Respondent at her last address known to the Board by first class mail on March 17, 1995.

3. Respondent, after explanation of her options, admitted to the violation charged in the Petition.

4. Respondent, while a graduate nurse, abused a patient by slapping that patient, while she and another employee were trying to restrain the patient. The slap was in retaliation for the patient's spitting in the Respondent's face.

5. The Respondent offered an explanation for her actions based upon her fear of this patient.

#### 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 Proceedings and service of the Notice of 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, et seq., specifically K.S.A. 65-1120(a)(6), unprofessional conduct as defined by K.A.R. 60-3-110(e), physical abuse of a patient as described in the Petition and the findings of fact 4 and 5.

#### ORDER

Based on the above findings of fact and conclusions of law, IT IS THEREFORE ORDERED pursuant to the disciplinary remedies available under K.S.A. 65-1120(a), the following disciplinary action shall be taken against the Respondent's license:

Respondent's license shall be suspended for one year from the date this order becomes effective. That suspension shall be


stayed, allowing respondent to practice as a nurse as long as she meets the following conditions:

1. Respondent shall obtain six hours of continuing nursing education in the area of dealing with combative patients or residents within 180 days (six months) of the effective date of this order. Proof of obtaining these six hours shall be submitted to the Board's Practice Specialist within ten days of obtaining them. Further, these hours must be obtained in order to maintain the stay of the suspension.


2. Respondent shall pay a fine of fifty (\$50.00) dollars within sixty (60) days of the effective date of this Initial Order. Payment shall be by money order or cashier's check payable to the State of Kansas, but mailed or delivered to the Board of Nursing Office. The fine shall be deposited in the State's general fund.

3. Respondent shall pay the Board of Nursing twenty-five (\$25.00) dollars as costs in these proceedings. The payment shall be made by money order or cashier's check, payable to the Board of Nursing, within thirty (30) days of date this order becomes effective.

IT IS SO ORDERED.

  
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Terry E. Beck  
Hearing Officer

Prepared and Submitted by:

  
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Mark S. Braun  
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Assistant Attorney General  
Disciplinary Counsel  
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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

This is to certify that on the 21<sup>st</sup> day of April, 1995, I deposited a true and correct copy of the Initial Order in the United States Mail, first class mail, postage prepaid to the following:

Elnora Bonderson  
7251 Gilmore  
Kansas City, Kansas 66111

and by hand delivery to:

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