

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

DEC 29 2006

KSBN

**IN THE MATTER OF
JANETTE K. BAILEY
License No. 13-087657-011**

Case No. 04-690-6

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 27th day of December, 2006, the Kansas State Board of Nursing, represented by Assistant Attorney General, Mark A. Knight, and the Licensee, Janette K. Bailey, represented by Martha Aaron Ross, 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. Licensee is licensed to practice nursing in Kansas through 1/31/2007. The Kansas State Board of Nursing (Board) has jurisdiction over the Licensee and the subject matter of this action.
2. Licensee's address of record is 1025 N. 7th St., Arkansas City, KS 67005.
3. Licensee is represented in these proceedings by Martha Aaron Ross with Foulston Siefkin, L.L.P.
4. After an investigation, the Board's investigative committee found reasonable grounds to believe that the Licensee 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) Licensee was employed at William Newton Memorial Hospital, Winfield, Kansas from on or about 6/19/2000 to on or about 8/7/2004.

(b) On or about June of 2004 William Newton Memorial Hospital staff notice irregularities in the charting of medications by Licensee.

(c) A review of patient charts where the patient was receiving morphine and that were under the care of Licensee between June of 2004 and August of 2004 was done. William Newton staff found that Licensee had signed out several doses of morphine without charting them. Staff found that doses charted by the Licensee in the patient chart did not match what Licensee charted on the narcotics sheet. Staff found patients who were taking loritab and Licensee had switched the patients to morphine. Staff found instances where morphine was signed out by Licensee ten minutes apart and then wasted by the Licensee due to the patient being asleep.

(d) Diane Duncan, RN at William Newton Hospital advised that on or about 8/7/2004 she entered the room of a patient that was being cared for by Licensee. D. Duncan advised that the patient had been receiving demerol via a PCA pump. D. Duncan stated she observed that the Licensee had unplugged the patient's pump and was in the process of removing the syringe from the pump. D. Duncan advised that Licensee left the room. D. Duncan stated she contacted Kim Eastman, House Supervisor at William Newton Hospital.

(e) K. Eastman advised that on or about 8/7/2004 she was contacted by D. Duncan. K. Eastman advised that she and D. Duncan went back to the room where they observed that the PCA pump was hanging but there was no syringe of demerol with it. K. Eastman stated she checked the charts and did not find that the Licensee had wasted demerol for the patient. K. Eastman advised further that the patient was not scheduled to have the demerol discontinued at the time the Licensee disconnected the pump.

(f) K. Eastman stated she decided to wait to see what the Licensee would do next. K. Eastman advised that approximately forty-five (45) minutes later the PCA pump with the syringe was on the cabinet in the nurses' station. K. Eastman stated she noticed there was fluid

in the syringe. K. Eastman advised that she took the PCA pump with the syringe and tubing to the pharmacy for testing.

(g) K. Eastman reported that the pharmacy found that the syringe contained approximately 6.5 cc of fluid. The fluid contained 0.1 mg/ml of meperidine (demerol) rather than the 10 mg/ml.

7. The Kansas Board contends such alleged misconduct on the part of the Licensee, if proven, would constitute violations of the Kansas Nurse Practice Act, specifically: K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to then current abuse of drugs or alcohol; K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board.

8. Licensee 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. Licensee 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. Licensee has violated the Kansas Nurse Practice Act as follows:

Count 1: K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to then current abuse of drugs or alcohol.

Count 2: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (d), inaccurately recording, falsifying, or altering any record of a patient or agency or 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. 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 Licensee's nursing license until Licensee completes each of the conditions and requirements of this agreement.

14. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the Licensee'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.

15. The Kansas State Board of Nursing will not take additional disciplinary action against Licensee's nursing license for the violations stated above as long as Licensee completes each of the following conditions and requirements:

(a) **Licensee 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. The suspension will be stayed as long as requirements within this agreement are met. Licensee shall return his or her current license card to the Board with this Consent Agreement.**

(b) **Licensee will participate in and complete the reasonable recommendations and requirements of the Kansas Nurses Assistance Program (KNAP);** sign releases of information necessary for KNAP to evaluate and monitor Licensee and for KNAP to report information to the board. Licensee will be deemed to have completed the KNAP program when

KNAP issues written notification that Licensee has completed the program. Noncompliance with KNAP is a violation of this agreement.

(c) **Licensee must submit to random drug screens as determined or selected by the Board or by KNAP.** The costs of the drug screens will be paid by the Licensee.

Licensee agrees that a Positive Drug Screen is a violation of this agreement.

(d) **Licensee shall immediately notify the Legal Division of any use of alcohol, if prohibited by KNAP, or controlled substances, or any violation of this Consent Agreement and Final Order.**

(e) **The Licensee shall immediately inform all current employers and prospective employers of this Consent Agreement and the Final Order, and shall notify any prospective employer of the same until such time as the Board inactivates this case file.**

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

(g) **Licensee shall not violate the Kansas Nurse Practice Act** during the duration of this agreement.

(h) **Licensee 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.

(i) **Licensee 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 until such time as the Board inactivates this case file. All such notifications shall be made in writing within fourteen (14) days of such a change.**

16. Licensee is responsible for the costs related to satisfying these conditions and requirements.

17. If Licensee does not meet these conditions and requirements, the Kansas State Board of Nursing may request additional sanctions against Licensee's license or application for a license. Licensee would be sent notice of such action and would be entitled to a hearing as to whether Licensee had complied with this Consent Agreement, but Licensee could not contest the violations listed in this agreement.

18. 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 Licensee and the Licensee's attorney of record. All parties agree that only serving the Notice of Hearing upon the Licensee will be proper service and it is the Licensee's responsibility to contact his or her attorney, in reference to the action.

19. Licensee acknowledges and agrees that upon a finding of Licensee not complying with the conditions or requirements of this Consent Agreement, the Stay of Suspension of Licensee's license to practice nursing in the State of Kansas, shall be lifted. Licensee will not be allowed to practice nursing in the state of Kansas during the period the Stay is lifted.

20. The Board will inactivate this case file once Licensee satisfies this agreement. This agreement does not prohibit the agency from taking disciplinary action against Licensee's license for any additional or cumulative violation of the Kansas Nurse Practice Act committed by the Licensee before or after this agreement is entered into.

21. This agreement is a discipline and must be reported on any future renewal 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.

22. By signing this Consent Agreement and Final Order, Licensee acknowledges that Licensee 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.

23. After successful completion of all of the conditions and requirements of this Consent Agreement by the Licensee, the Consent Agreement will be satisfied and the case will be inactivated. The Board shall provide timely, written notice of such inactivation to the Licensee.

24. 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.

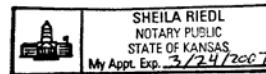
IN WITNESS WHEREOF, the parties hereto execute this CONSENT AGREEMENT AND FINAL ORDER.

IT IS SO ORDERED.

Janette K. Bailey
Licensee
1025 N. 7th St.
Arkansas City, KS 67005

Janette K. Bailey must sign before a Notary Public.
State of Kansas, County of Cowley ss.
SUBSCRIBED AND SWORN TO before, me by Janette K. Bailey
on this 18 day of December, 2006.

Signature of Notary Public My Commission Expires 3/24/2007
(Notary Public Seal)



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Terry E. Beck, Hearing Officer

CERTIFICATE OF SERVICE

On the 29th day of December, 2006, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

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