

BEFORE THE KANSAS STATE BOARD OF NURSING
Landon State Office Building, 900 S.W. Jackson #1051
Topeka, Kansas 66612-1230

FILED
MAY 25 2011

IN THE MATTER OF
ROBERT L. SHARP
License No. 13-90630-071

KSBN

Case No. 10-1052-7

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FINAL ORDER
AND CONSENT AGREEMENT

NOW ON THIS 31st day of May, 2011, the Kansas State Board of Nursing, represented by Assistant Attorney General, Danielle R. Sanger, and the Respondent Robert L. Sharp, 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 through 07/31/2011. 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 109 N Normandy Street, Olathe KS 66061.
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. Respondent acknowledges that this agreement is an open record pursuant to the Kansas Open Records Act, K.S.A 45-215 *et seq.*, and may be published or disseminated.
5. The Kansas State Board of Nursing shall examine, license and renew licenses of duly qualified applicants under the authority of K.S.A. 74-1106 *et seq.* Under the authority of K.S.A. 65-1120, the Kansas State Board of Nursing may deny, revoke, limit or suspend a license or authorization to practice nursing or 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. On or about 8/6/2010, the Board received information regarding Respondent, alleging that on or about 8/4/2010, while employed at Shawnee Mission Medical Center, Respondent engaged in unprofessional conduct.
 7. Upon review of the above-referenced patient's record, Respondent violated the Nurse Practice Act by inserting a foley catheter prior to a physician's order.
 8. The above incidents are violations of the Nurse Practice Act. The Respondent agrees that the Board is prepared to prove that respondent has violated:
 - a. K.S.A. 65-1120(a)(6): to be guilty of unprofessional conduct as defined by rules and regulations of the board, and KAR 60-3-110(a), performing acts beyond the authorized scope of the level of nursing for which the individual is licensed.
 9. 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

10. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 *et seq.* to examine, license and renew licenses for duly qualified applicants and deny, revoke, limit or suspend 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.
11. Respondent has violated the Kansas Nurse Practice Act as follows:

- a. K.S.A. 65-1120(a)(6): to be guilty of unprofessional conduct as defined by rules and regulations of the board, and KAR 60-3-110(a), performing acts beyond the authorized scope of the level of nursing for which the individual is licensed.

POLICY STATEMENT

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

DISPOSITION

13. 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.

14. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that this Final Order and 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 Final Order and Consent Agreement 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. 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's license is suspended with a Stay.**

- b. Respondent shall complete 3-6 hours of CNE on "Disciplinary Actions" and submit an original certificate of completion within 90 days of the date of the Consent Agreement.
- c. Respondent shall complete 3-6 hours of CNE on "Professional Boundaries" and submit an original certificate of completion within 90 days of the date of the Consent Agreement.
- d. Respondent shall complete 3-6 hours of CNE on "Nursing Ethics" and submit an original certificate of completion within 90 days of the date of the Consent Agreement.
- e. Respondent shall complete 3-6 hours of CNE on "Documentation" and submit an original certificate of completion within 90 days of the date of the Consent Agreement.
- f. Respondent shall submit reports from the Respondent's employer to the attention of the Legal Division, Kansas State Board of Nursing, Landon State Office Building, 900 S.W. Jackson, Suite 1051, Topeka, Kansas 66612-1230 on the following schedule:
 - i. Prior to Respondent securing employment that utilizes his or her nursing license, Respondent is to mail to the Kansas State Board of Nursing a statement indicating that Respondent has not yet secured employment which utilizes Respondent's nursing license. This statement is due by the 10th day of each month beginning the next month after signing this Final Order and Consent Agreement.
 - ii. Once Respondent is employed in a position that utilizes his or her nursing license, or if Respondent is currently employed in a position that utilizes his or her nursing license, a nursing performance report is due by the 10th day of every third Month until Respondent has

caused the submission of four (4) separate nursing performance reports.

- iii. The report shall be prepared and signed by Respondent's immediate supervisor or by an R.N. who evaluates Respondent's performance on a regular basis and be based on the following guidelines:
 - 1. Incorporation of information on facility letterhead stationary is required.
 - 2. Letter format is acceptable, with the date of the report identified.
 - 3. Evaluator's name, telephone number, address, license number and nursing credentials.
 - 4. Respondent's name, address, telephone number, license number.
 - 5. A short explanation of the Respondent's work performance in the following areas:
 - a. Standards met regarding facility policies and procedures.
 - b. Compliance with the Kansas Nurse Practice Act.
 - c. Supervisor evaluations.
 - d. Overall appropriateness.
 - e. Interactions with patients.
 - f. Interactions with staff and administration.
- g. Respondent shall send a money order for \$70 to the Board upon entering into this agreement to pay the cost of this action.
- h. Respondent shall not violate the Kansas Nurse Practice Act during the duration of this agreement.

- i. Respondent shall not violate the laws of the United States, of any 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.
 - j. 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.
 - i. All such notifications shall be made in writing within fourteen (14) days of such a change.
 - k. Respondent acknowledges and agrees that Respondent is responsible for the costs related to satisfying the conditions and requirements of this Final Order and Consent Agreement. Respondent further acknowledges and agrees that to provide the Board with false information regarding compliance with this Final Order and Consent Agreement is a violation of this Final Order and Consent Agreement.
17. 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 Final Order and Consent Agreement, but Respondent 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 Final Order and 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.
19. Respondent acknowledges and agrees that if any notice based on failure to meet the conditions and requirements of this Final Order and Consent Agreement is filed during

the term of this Final Order and Consent Agreement, or within 30 days after the expiration date, the conditions of this Final Order and Consent Agreement shall continue in effect until the Board takes final action in the proceeding.

20. Respondent acknowledges and agrees that upon a first finding of Respondent not complying with any of the conditions or requirements of this Final Order and 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. Respondent acknowledges and agrees that all conditions and requirements of this Final Order and Consent Agreement remain in effect during the period of suspension.
21. Respondent acknowledges and agrees that upon a second or subsequent finding of Respondent not complying with any of the conditions or requirements of this Final Order and 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. Respondent acknowledges and agrees that all conditions and requirements of this Final Order and Consent Agreement remain in effect during the period of suspension.
22. Respondent acknowledges and agrees that upon the Stay of Suspension being lifted due to a finding of non-compliance with any of the conditions or requirements of this Final Order and 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 and has remained in compliance during the period of suspension, with all conditions and requirements of this

Final Order and Consent Agreement. Upon the Respondent providing said written verification, the suspension will again be stayed.

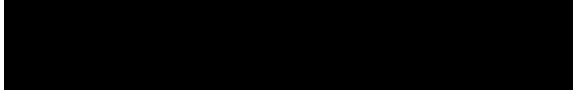
23. This agreement does not prohibit the agency from taking disciplinary action against Respondent's license for any additional or cumulative violation of the Kansas Nurse Practice Act committed by the Respondent before or after this agreement is entered into.
24. This agreement is a discipline and must 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. This Agreement is a public record and will be reported to national disciplinary data banks.
25. After successful completion of all of the conditions and requirements of this Final Order and Consent Agreement by the Respondent, the Final Order and Consent Agreement will be satisfied and the case will be inactivated.
26. By signing this Final Order and Consent Agreement, Respondent acknowledges that Respondent has read and understands the entire document and agrees to be bound by its terms. This Final Order and Consent Agreement constitute the entire agreement of the parties and may not be modified except in writing and approved by all parties. The effective date of this Final Order and Consent Agreement is the date shown on the certificate of service.
27. 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 FINAL ORDER AND CONSENT AGREEMENT.

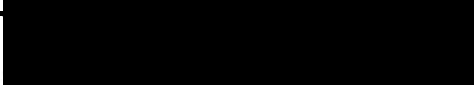
IT IS SO ORDERED



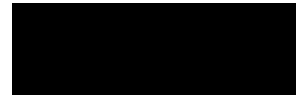
Robert L. Sharp
Respondent
109 N Normandy Street
Olathe KS 66061



Mark Stafford, #13233
Counsel for Respondent



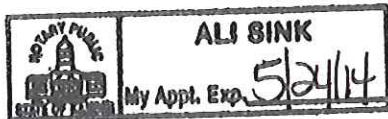
Danielle R. Sanger, #24587
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612



Sandra Sharon, Presiding Officer

State of KS
 County of Osage
 On 5/12, 2011, Robert Sharp
 personally appeared before me,
 who is personally known to me
 whose identity I proved on the basis of KSDL
 whose identity I proved on the oath/affirmation of _____, a credible witness
 to be the signer of the above instrument, and he/she acknowledged that he/she signed it.
Ali Sink
 Notary Public
 My commission expires 5/24/14

(Seal)



Pursuant to K.S.A. 77-527, either party may request a review of this final order by filing a petition for reconsideration with the Kansas State Board of Nursing. A petition for reconsideration must be filed within 15 days from the date this final order was served. Failure to timely request a reconsideration by the Kansas State Board of Nursing may preclude further judicial review. The petition for reconsideration shall be mailed or personally delivered to: Mary Blubaugh, Executive Director, Board of Nursing, Landon State Office Building, Suite 1051, 900 SW Jackson, Topeka, KS 66612-1230.

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

CERTIFICATE OF SERVICE

I certify that on the 2nd day of June, 2011, the foregoing copy of the FINAL ORDER AND CONSENT AGREEMENT was deposited in the United States Mail, first-class postage prepaid, addressed to the following:

Mark Stafford
Holbrook & Osborn, P.A.
107 S.W. 6th Avenue, Suite 210
Topeka, KS 66603

Robert L. Sharp
109 N Normandy Street
Olathe KS 66061



Danielle R. Sanger, #24587
Assistant Attorney General
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