

MAR 11 2008

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

IN THE MATTER OF
DIXIE M. BARNES
License No. 13-093915-101

Case No. 05-983-9, 05-173-3

FILED

MAR 13 2008

KSBN

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 11th day of March, 2008, the Kansas State Board of Nursing, represented by Assistant Attorney General, Alma A. Heckler, and the Respondent, Dixie M. Barnes, represented by Debra Egli James, Attorney at Law, 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 10/31/2009. The Kansas State Board of Nursing (Board) has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent's address of record is 200 East Third Street, Clifton, KS 66927.
3. The Respondent understands that pursuant to K.S.A. 77-515, respondent is represented at respondent's expense by, Debra Egli James, an attorney during these proceedings.
4. After an investigation, the Board's investigative committee found reasonable grounds to believe that the Respondent 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. According to a report, it was alleged while the Respondent was employed by Clay County Medical Center, Respondent was repeatedly negligent in the care of patients assigned to her and she failed to follow the facility's policies and procedures. Two of the incidents allegedly occurred from approximately May 8, 2004 through approximately August 11, 2005. These incidents allegedly included the administration of blood by the Respondent without prior training and or authorization. Respondent failed to call a "code blue" on a patient and did not know the patient's "code" status and instead directed a CNA to contact the patient's assigned nurse.

7. The above incidents are violations of the nurse practice act. The Respondent agrees that the board is prepared to prove respondent's violations:

Count 1: K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(1), one or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board.

Count 2: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(c), failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient.

8. 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

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. Respondent has violated the Kansas Nurse Practice Act as follows:

Count 1: K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(1), one or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board.

Count 2: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(c), failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient.

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 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 Consent Agreement and Final Order remaining in effect until Respondent 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 Respondent's license to practice nursing in Kansas is immediately limited. The limitations placed on the license and described below will remain in

place until the requirements and conditions of this agreement are met or until the requirements and conditions of this agreement call for the modification of the limitations.

15. 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:

16. Respondent shall return her current license card to the Board with this Consent Agreement. The respondent's new license card will have an "L" indicating the limitations on the practice.

17. The respondent shall immediately inform all employers and prospective employers of this Consent Agreement and the Final Order.

18. Respondent shall send a money order for \$70 to the Board upon entering into this agreement to pay the cost of this action.

19. Respondent shall not violate the Kansas Nurse Practice Act during the duration of this agreement.

20. Respondent 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.

21. The Respondent will complete three (3) hours of Continuing Nurses Education (CNE) on each of the following topics; "Medication Administration" and "Legal Issues in Nursing". Respondent is to submit the original certificates for proof of the completion of the hours by March 15, 2008. Respondent may not use these hours to meet the CNE requirements of any renewal period.

22. The Respondent also agrees to complete a Refresher Course in Nursing (a list of Board approved RN Refresher Course Providers has been forwarded with this agreement to the Respondent and Respondent's Counsel) and Respondent shall complete the Refresher Course not later than July 1, 2008.

23. Respondent will submit Reports from the Licensee'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: Respondent is currently employed at Presbyterian Manor in Clay Center, Kansas in a position that utilizes 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. 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 preferred.
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.

24. 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. All such notifications shall be made in writing within fourteen (14) days of such a change.

25. Respondent agrees and understands that she must be supervised at all times during the regular work week by a R.N. If the Respondent accepts work assignments on the

weekend, while employed by Presbyterian Manor in Clay Center, Kansas, a R.N. must be on call at all times during the Respondent's shift and available to take phone calls from the Respondent. If the Respondent changes employers during the period of her discipline, the Respondent shall be personally supervised at all times by an R.N. on site.

26. Respondent acknowledges and agrees that Respondent is responsible for the costs related to satisfying the conditions and requirements of this Consent Agreement. Respondent further acknowledges and agrees that to provide the Board with false information regarding compliance with this Consent Agreement is a violation of this Consent Agreement.

27. 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 Consent Agreement, but Respondent could not contest the violations listed in this agreement.

28. 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 Respondent and the Respondent's attorney of record. All parties agree that only serving the Notice of Hearing upon the Respondent will be proper service and it is the Respondent's responsibility to contact her attorney, if any, in reference to the action.

29. Respondent acknowledges and agrees that upon a first finding of Respondent not complying with the conditions or requirements of this Consent Agreement, the Board may request a Stay of Suspension of Respondent's license to practice nursing in the State of Kansas, and such stay 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.

30. Respondent acknowledges and agrees that upon a second or subsequent finding of Respondent not complying with the conditions or requirements of this Consent Agreement, any request to suspend Respondent's license to practice nursing in the State of Kansas, shall be for a period of one year from the date of said finding of non-compliance.

Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension.

31. Respondent acknowledges and agrees that upon a third suspension of Respondent's license due to a finding of non-compliance with this Consent Agreement, the suspension will not again be lifted until the Respondent has, following the prescribed time period of suspension, provided written verification to the Board, Respondent is in compliance with all conditions and requirements of this Consent Agreement. Upon the Respondent providing said written verification the suspension will again be lifted.

32. The Board will inactivate this case file once respondent satisfies this agreement. 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.

34. 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 and is a public record.

35. After successful completion of all of the conditions and requirements of this Consent Agreement by the Respondent, the Consent Agreement will be satisfied and the case will be inactivated.

36. By signing this Consent Agreement and Final Order, Respondent acknowledges that Respondent has read and understands the entire document, and agrees to be bound by

900 SW Jackson #1051
Topeka, KS 66612


Sandra L. Sharon, Presiding Officer

CERTIFICATE OF SERVICE

On the 13th day of March, 2007, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Dixie M. Barnes
200 East Third Street
Clifton, KS 66927

Debra Egli. James
Counsel for Respondent
119 West Iron Avenue
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Salina, Kansas 67402-1247



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