

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

IN THE MATTER OF
SHELBY L. BERRY
License No. 13-94228-112

Case No. 13-790-3

14BNO183
10/28/14
FILED

OCT 27 2014

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AGREED ORDER TO SUSPEND LICENSE

This Agreed Order is entered into on this 12th day of September 2014, by the Kansas State Board of Nursing, by and through Disciplinary Counsel, Alma A. Heckler, the Respondent, Shelby L. Berry, pro se, and as approved by the Administrative Hearing Officer. Respondent fully understands and agrees to the following:

1. Respondent is licensed to practice nursing in Kansas through 11/30/2014. 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 1600 East 28th Street, Hays, Kansas 67601.
3. 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(a) is established. Suspension is therefore considered discipline of a license.
4. Respondent has the right to these hearings and the right to seek review of the findings from the hearings 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 knowingly and voluntarily entering into this agreement instead of proceeding to these hearings. This agreed order will conclude Board action pending at this time against Respondent's license.

5. Respondent understands that pursuant to K.S.A. 77-515, Respondent may be represented at Respondent's expense, by an attorney during these proceedings.

6. On or about May 22, 2014, the Kansas State Board of Nursing filed a petition alleging the respondent violated the Kansas Nurse Practice Act:

(a) Respondent was employed at Hays Medical Center (HMC) in Hays, Kansas from 2011 to May, 2013. While employed at HMC, respondent received two written warnings for disruptive behaviors in February and May of 2013. Respondent resigned in May of 2013.

(b) Respondent allegedly took photographs of patient penises. Respondent shared false patient care information with other staff. Staff complained about her foul language and vulgar comments about patients.

(c) Respondent tweeted several comments about patients and working at HMC and the following are a few examples:

"If you have ever placed a urinary catheter in a female patient over 75 you will never eat a grilled cheese sandwich again."

"I guess saying well you are dying, even in my kind voice wasn't kind enough."

"I like to wear my cross bones & skull long sleeved shirt ... gives my vented patient's families something to discuss."

(d) Respondent failed to report she was convicted of driving without a driver's license on her person and driving without a seatbelt on or about 10/11/2011. She failed to report the convictions to the Board.

The Board alleged the following violations of the Kansas Nurse Practice Act:

Count 1: K.S.A. 65-1120(a)(1) to be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing;

Count 2: K.S.A. 65-1120(a)(6), unprofessional conduct as defined by rules and regulations of the board; specifically K.A.R. 60-3-110(d) by inaccurately recording, falsifying, or altering any record of a patient or agency or of the board;

Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct as defined by rules and regulations of the board; specifically K.A.R. 60-3-110(j) violating the confidentiality of information or knowledge concerning any patient;

Count 4: K.S.A. 65-1120(a)(6), unprofessional conduct as defined by rules and regulations of the board; specifically K.A.R. 60-3-110(t) failing to furnish the board, its investigators, or its representatives with any information legally requested by the board;

7. The respondent does not admit to these facts or violations but admits that the Board has sufficient evidence to support its allegations and violations of the Kansas Nurse Practice Act.

8. Based upon this agreed order, Respondent agrees to the immediate suspension of her license to practice nursing in the state of Kansas until she completes the following and submits proof/certificates of completion to the Board of Nursing and disciplinary counsel for the Board:

a) Respondent agrees to complete an **Anger Management** course and provide documentation of her completion to the Board disciplinary attorney. Respondent agrees to a referral from High Plains Mental Health Center in Hays, Kansas. When contacted, High Plains indicated it does not provide that service but refers to Tom Range, a mental health professional. He may be contacted at 785-625-9192 for enrollment in an open Anger Management course.

b) Respondent agrees to complete a 3-6 hours Continuing Nurse Education (CNE) course on **Patient Privacy** and to submit proof of completion to the Board disciplinary attorney.

c) Respondent agrees to complete a 3-6 hours Continuing Nurse Education (CNE) course on **Nursing Professionalism** and to submit proof of completion to the Board disciplinary attorney.

9. The parties agree that Respondent's RN nursing license to practice nursing in Kansas is immediately suspended as of the date of the filing of this order. Respondent shall not practice nursing as an RN in the state of Kansas until she completes the education described in item

8 of this Agreed Order , provides proof of completion to the Board and the Board files an order lifting her suspension in the above captioned matter.

10. Costs of the action of \$70 are assessed to respondent to be paid to the board by cash or money order within 30 days of the effective date of this order.

11. By their signatures, the parties hereby acknowledge this agreed order.

12. Disciplinary counsel shall mail a copy of this Agreed Order to Suspend to respondent's address.

IT IS SO ORDERED.

Sandra L. Sharon, Presiding Officer

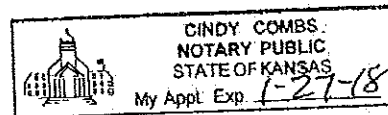
Shelby L. Berry
Respondent
1600 East 28th Street
Hays, Kansas 67601

Alma A. Heckler, #11555
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

County of ELLIS
State of KANSAS

This instrument was acknowledged before me
on 10 day of Sept, 2014 by _____

Cindy Combs
Notary Public's Signature
My Commission Expires 1-27-18



NOTICE

Pursuant to K.S.A. 77-527, either party may request a review of this order by filing a petition for review with the Kansas State Board of Nursing. The petition for review shall state its basis. A petition for review must be filed within 7 days from the date this order becomes effective. Failure to timely request a review by the Kansas State Board of Nursing may preclude

further judicial review. The petition for review shall be mailed or personally delivered to: State Board of Nursing - Legal Division, Landon State Office Building, 900 SW Jackson, Ste 1051, Topeka, KS 66612-1230.

Pursuant to K.S.A. 77-530, if neither party requests a review by the Kansas State Board of Nursing, then this initial order becomes final and binding on both parties on the 30th day following its service.

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

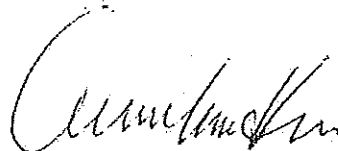


Alma A. Heckler, #11555
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson, Suite #1051
Topeka, KS 66612-1230
785-296-4325

CERTIFICATE OF SERVICE

I certify that on the 27th day of October, 2014, the foregoing copy of the AGREED ORDER SUSPEND was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Shelby L. Berry
1600 East 28th Street
Hays, Kansas 67601



Alma A. Heckler
Assistant Attorney General