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BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED #1941

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IN THE MATTER OF ALDIN JOHN PELICAN

License No 14-106861 AND 43-55702-022

KSBN

Case No. 11-1484-1

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 18th day of February 2013, THE ABOVE MATTER COMES BEFORE THE Kansas State Board of Nursing (Board) pursuant to authority granted to the Board by K.S.A. 65-1120. The Board hereby proposed to find facts and take disciplinary action against the Licensee by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. Respondent, Aldin John Pelican, is licensed to practice nursing in Kansas through February, 2014. The Board has jurisdiction over the Licensee and the subject matter of this action.
2. Licensee's address of record is P.O. Box 1744 Garden City, Kansas 67846..
3. This case was submitted to the Investigative Committee on the 26th of March, 2012
4. Review of the investigation and other information gathered by the Board revealed the following information upon which this action is based.
5. 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.
6. 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.

7. (a) A petition was filed on or about October 22nd, 2012 to take disciplinary action against the licensee's license.

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 the Kansas Nurse Practice Act as follows:

9 The facts below are common to all counts:

(a) In November, 2004, Licensee had been in treatment at Hattiesburg, MS after which he entered into a contract with Alabama VDAP voluntary discipline program.

(b) Respondent signed at 5 year contract and was released early after three years of compliance.

(c) On the 10th day of November 2008, Respondent entered into an employment contact with St Catherine Hospital in Garden City, Kansas.

(d) Respondent had a prior Diversion Agreement in Kansas on the 6th of January, 2009.

(e) Respondent successfully completed KNAP on the 2nd day of February, 2010

(f) It is alleged that there were complaints about respondent's abilities as they related to obstetrical epidural analgesia on January 4th, 2011.

(g) On the 12th day of January, 2011, corrective action and disciplinary action form indicated complaints about Respondent's abilities.

(h) Licensee had major surgery in February, 2011 and had a relapse.

(i) While under contractual agreement with St Catherine Hospital in Garden City, Kansas, respondent tested positive for opiates on the 8th of November 2011.

(j) Drug audit report indicated licensee's count exceeds two and three or more units of standard deviation above the mean for narcotics.

(k) Respondent admitted while at St Catherine Hospital stated that he removed drugs from pyxis after the case was over and admitted that he would divert before the case started and then sign out as wasted.

(l) Respondent was reported to KNAP by his employer on the 9th of November, 2011.

(m) Respondent's contract was terminated on the 9th of December, 2011.

(n) Licensee stated that he went back to Alabama with his ill wife and found out he was no longer in VDAP in Alabama.

(o) Alabama suggested that his professional career would be better served in Kansas.

(p) His Alabama license was under investigation.

10. 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

11. 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.

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

Count 1: K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n);

Count 2: K.S.A. 65 1120(a)(4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol;

Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct, by failing to complete the requirements of the impaired provider program of the board; K.A.R. 30-3-110 (s)

Count 3 1 K.S.A. 65-1120(a)(8), to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended ... by a licensing authority of another state.

POLICY STATEMENT

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

DISPOSITION

14. 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.

15. Upon the parties entering into this Final order and Consent Agreement and with the respondent having met all statutory requirements for reinstatement of respondent's Kansas Nursing license, the respondent's application for reinstatement of respondent's Kansas Nursing license will be granted after the agreed suspension period.

16. 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.

17. 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 for a period of one (1) year from the date of this agreement of which this suspension will be stayed provided that licensee complies with the terms of this Consent Agreement.

18. 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 will continue to 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 respondent and for KNAP to report information to the board. Respondent will be deemed to have completed the KNAP program when KNAP issues written notification that respondent has completed the program. Respondent must enroll in the KNAP program within thirty (30) days of entering this agreement. Noncompliance with KNAP is a violation of this agreement

(b) Respondent 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 respondent. Respondent agrees that a Positive Drug Screen is a violation of this agreement.

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

(d) The respondent shall immediately inform all employers and prospective employers of this Final Order and Consent Agreement.

(e) Respondent will 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: this first report will be do on March 10th, 2013 and every third month thereafter until eight (8) reports have been submitted.

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

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

(h) 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.

(i) The respondent will complete three (3) hours of Continuing Nurses Education (CNE) on the topic of "Kansas Nurse Practices Act." Respondent is to submit the original certificates for proof of the completion of the hours within 30 days of this agreement. Respondent may not use these hours to meet the CNE requirements of any renewal period.

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

19. 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.

20. 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.

21. 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. 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 his or her attorney, if any, in reference to the action.

22. Respondent acknowledges and agrees that if any action 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 or a hearing/presiding officer designated pursuant to K.S.A. 77-514 and K.S.A. 77-526, rules on the action.

23. Respondent acknowledges and agrees that upon a finding of Respondent not complying with any of the conditions or requirements of this Final Order and Consent Agreement the Suspension of Respondent's license to practice nursing in the State of Kansas, shall be extended 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.

24. Respondent acknowledges and agrees that the Suspension will be extended 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 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 be stayed.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.



Respondent
Aldin John Pelican, JR
P.O. Box 1744
Garden City, Kansas 67846-1744

_____ must sign before a Notary Public.




Michael R. Fitzgibbons #12287
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612


Sandra Sharon, Presiding Officer

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 with 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.

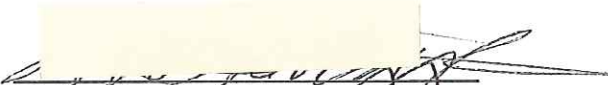
Pursuant to K.S.A. 77-531, if the final order is served by mail, three days are added to the time limits set out above.

Pursuant to K.S.A. 77-530, if a request for reconsideration is not requested in the time and manner stated above, this initial order shall become effective as a final order 30 days after service.

CERTIFICATE OF SERVICE

On the 22nd day of February, 2013, I mailed a copy of this FINAL ORDER AND CONSENT AGREEMENT to:

Aldin John Pelican
P.O. Box 1744
Garden City, Kansas 67846-1744


Michael R. Fitzgibbons, #12287
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

