

14BNO155

2/23/16

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

FILED

DEC 22 2015

FILED ON

IN THE MATTER OF
CONSTANCE R. MOORE
License No. 14-118794-052

KSBN

15 DEC '15 AM 9:37

Case No: 13-1211-0 and 12-735-0

INITIAL AGREED ORDER

NOW ON THE 15th day of December, 2015, 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, Constance R. Moore, is licensed to practice nursing in Kansas. The Board has jurisdiction over the Licensee and the subject matter of the action.
2. Respondent's address of record is 2375 Milo Road Abilene Kansas 67410.
3. The case was submitted to the Investigative Committee on the 23rd of May, 2012.
4. Review of the investigation and other information gathered by the Board revealed the following information upon which the 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 the 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 Summary order may be to revoke licensee's license as 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 act and stipulates to the allegations alleged in the Petition.

Respondent 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 current abuse of drugs or alcohol;

Count 2: 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, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States government, territory of the United States or country...

Count 3: K.S.A. 65-1120(a)(3), to have committed an act of professional incompetency as defined in subsection (e) of K.S.A. 65-1120; (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

Count 4: K.S.A. 65-1120(a)(6), to be guilty of unprofessional conduct as defined by the rules and regulations of the board, specifically, K.A.R. 60-3-110(s) failing to complete the requirements or the impaired provider program of the board;

10. The facts below are common to all counts:

The respondent stipulated to the facts and violations as state below when she entered a Diversion Agreement with the Board on February 10, 2014:

(a) In Case No. 13-1211-0 Respondent failed to report to the Kansas Board, her application to practice nursing in Missouri was denied on or about 6/27/2013.

Respondent had a temporary permit to practice in Missouri, While practicing in Missouri

under the temporary permit on or about 1/10/2013. Respondent exhibited erratic behavior. Respondent was on duty as a nurse at a facility. She submitted to a drug and alcohol test and it was positive for marijuana. Respondent admitted to smoking marijuana. Respondent's full Missouri license was then denied by the Missouri Board of Nursing.

(b) In Case No. 12-735-0 Respondent reported her Oklahoma nursing license was disciplined. Respondent stipulated to the following when she entered into an agreement in Oklahoma:

On or about July 23, 2004, to September 14, 2004, while employed as a Director of Nursing with Bellevue Nursing Center, Oklahoma City, Oklahoma, Respondent failed to adequately assess and failed to ensure that staff under her direct supervision adequately assessed, appropriately cared for and consistently documented the care of resident P.M.

(c) Respondent agreed to complete education, and pay a fine of \$1000.00.

(d) Respondent failed to respond to efforts by the Board to contact her regarding the investigation by the Kansas Board in Case No. 13-1211-0. In Case No. 13-1211-0 Respondent's Missouri license application was denied.

(e) Respondent's licenses in both Oklahoma and Missouri have been disciplined.

(f) Respondent entered into a Diversion Agreement with the board on February 10, 2014 and agreed to do the following:

"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. Respondent must enroll in the KNAP program **within thirty (30) days** of entering this agreement. Noncompliance with KNAP is a violation of this agreement."

(g) Respondent enrolled in KNAP on or about 4/2/2014. She relapsed on April 24, 2014. She was required to enroll in a three (3) year contract with KNAP. On May 1, 2014 when she came to the KNAP office to sign the agreement she smelled of alcohol. She admitted to KNAP staff that she had been drinking alcohol the night before. Respondent's KNAP case was closed for non-compliance on or about October 8, 2014. She failed to submit proof of attendance to 12 step meetings on time and did not attend the monthly monitoring meetings she was scheduled to attend in September 2014.

11. 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 the agreement instead of proceeding to such a hearing.

CONCLUSIONS OF LAW

12. 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)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol;

Count 2: 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, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States government, territory of the United States or country...

Count 3: K.S.A. 65-1120(a)(3), to have committed an act of professional incompetency as defined in subsection (e) of K.S.A. 65-1120; (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

Count 4: K.S.A.65-1120(a)(6), to be guilty of unprofessional conduct as defined by the rules and regulations of the board, specifically, K.A.R. 60-3-110(s) failing to complete the requirements or the impaired provider program of the board;

POLICY STATEMENT

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

DISPOSITION

14. By entering into the Initial Agreed Order and consenting to the entry of the Initial 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. Based upon the agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the Initial Agreed Order will continue through any renewal periods of respondent's nursing license until respondent completes each of the conditions and requirements of the 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 the Initial Agreed Order remaining in effect until Respondent completes each of the conditions and requirements of the agreement.

16. Based upon the 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 will be suspended for six (6) months and this suspension will be stayed providing she is in compliance with KNAP and with the terms and conditions of this agreement.

17. 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 maintain compliance with the Kansas Nurses Assistance Program (KNAP) and follow the the recommendations and requirements. There must be a determination of licensee's safety to practice nursing. Respondent shall sign releases of information necessary for KNAP to evaluate for substance abuse and to monitor Respondent and for KNAP to report information to the Board, Attorney General's office, and Office of Administrative Hearings.

(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 the 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 the Initial Agreed Order.

(d) The respondent shall immediately inform all medical or health related employers and prospective employers of the Initial Agreed Order and not work in agency or unsupervised positions.

(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: First report will be due on January 10th, 2016 and the 10th of every third month until four (4) reports have been submitted. These reports are performance reports while in a position that requires a nursing license.

(f) Respondent shall send a money order for \$100 to the Board upon entering into the agreement to pay the cost of the action.

(g) Respondent shall not violate the Kansas Nurse Practice Act during the duration of the 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 the agreement. Traffic infractions shall not be considered violations of the law.

(i) The respondent will complete two (2) 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 90 days of the 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.

18. Respondent acknowledges and agrees that Respondent is responsible for the costs related to satisfying the conditions and requirements of the Initial Agreed Order. Respondent further acknowledges and agrees that to provide the Board with false information regarding compliance with the Initial Agreed Order is a violation of the Initial Agreed Order.

19. 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 the Initial Agreed Order, but Respondent could not contest the violations listed in the agreement.

20. All parties understand that if an action based on failure to meet the conditions and requirements of the Initial Agreed Order 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 her or her attorney, if any, in reference to the action.

21. Respondent acknowledges and agrees that if any action based on failure to meet the conditions and requirements of the Initial Agreed Order is filed during the term of the Initial Agreed Order, or within 30 days after the expiration date, the conditions of the Initial Agreed Order 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.

22. Respondent acknowledges and agrees that upon a finding of Respondent not complying with any of the conditions or requirements of the Initial Agreed Order the stay on the Suspension of Respondent's license to practice nursing in the State of Kansas will be removed 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 the Initial Agreed Order remain in effect during the period of suspension.

23. 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 the Initial Agreed Order, 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 the Initial Agreed Order. Upon the Respondent providing said written verification the suspension will be stayed.

24. The Board will inactivate the case file once respondent satisfies the agreement. The 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 the agreement is entered into.

25. The agreement is a discipline and must be reported on any future renewal or reinstatement applications. The agreement is a contract entered into by the parties to resolve an investigative case. The original of the agreement shall be placed in the Agency Record. The Agreement is a public record and will be reported to national disciplinary data banks.

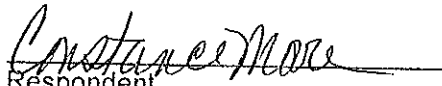
26. After successful completion of all of the conditions and requirements of the Initial Agreed Order by the respondent, the Initial Agreed Order will be satisfied and the case will be inactivated.

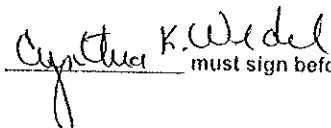
27. By signing the Initial Agreed Order, Respondent acknowledges that Respondent has read and understands the entire document, and agrees to be bound by its terms. The Initial Agreed Order constitute the entire agreement of the parties and may not be modified except in writing and approved by all parties. The effective date of the Initial Agreed Order is the date shown on the certificate of service.

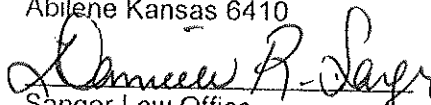
28. The hearing/presiding officer whose signature appears below has been designated pursuant to K.S.A. 77-514 and K.S.A. 77-526 to act on behalf of the Board/agency head and to hear discipline cases on behalf of the Board/agency head and to render either initial orders or final orders, if by agreement of both parties, in those discipline cases.

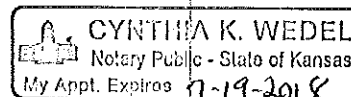
IN WITNESS WHEREOF, the parties hereto execute the INITIAL AGREED ORDER.

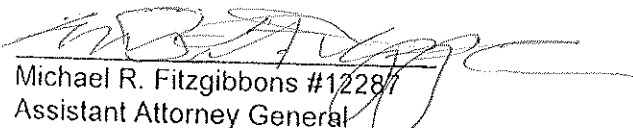
IT IS SO ORDERED.



Respondent
Constance R. Moore
2375 Milo Road
Abilene Kansas 6410


must sign before a Notary Public.


Sanger Law Office
Attn: Danielle R. Sanger
5040 Bob Billings Parkway, Suite C-1
Lawrence, Kansas 66049
Attorney for Respondent




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 the 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 the 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.

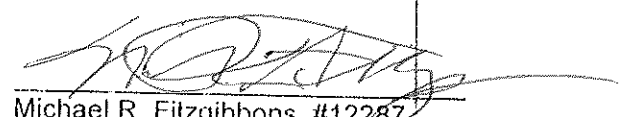
Pursuant to K.S.A. 77-530, if a request for reconsideration is not requested in the time and manner stated above, the initial order shall become effective as a final order 30 days after service.

CERTIFICATE OF SERVICE

On the 22nd day of December, 2015, I mailed a copy of the INITIAL AGREED ORDER:

Constance R. Moore
2375 Milo Road
Abilene Kansas 6410

Sanger Law Office
Attn: Danielle R. Sanger
5040 Bob Billings Parkway, Suite C-1
Lawrence, Kansas 66049


Michael R. Fitzgibbons, #12287
Assistant Attorney General