

BEFORE THE KANSAS STATE BOARD OF NURSING  
LONDON STATE OFFICE BUILDING  
900 S.W. JACKSON, ROOM 551-S  
TOPEKA, KANSAS 66612-1230

IN THE MATTER OF:           )  
                                  )  
CHERYL DRUMMOND            )  
LICENSE NO. 14-038710-102)

CASE NO. 93-0081-7



INITIAL ORDER

NOW ON THIS 7th day of July, 1994, the above-captioned matter comes on for hearing before Helen R. Rice, Hearing Officer designated by the Kansas State Board of Nursing to hear this matter, in the Landon State Office Building.

The Petitioner appears by and through Assistant Attorney General Mark S. Braun, the Board's Disciplinary Counsel. The Respondent appears in person, pro se.

The matter proceeds whereupon the Hearing Officer inquires of the parties whether they are ready to proceed. Both sides indicate they are ready to proceed. The Hearing Officer inquires of the Respondent whether there are any objections to the form of the Petition, the filing of the Petition or the Notice of Hearing. The Respondent states she just recently received the Notice of Proceedings and the Petition and objects to proceeding with the hearing as scheduled. Petitioner responds that the materials were served on the Respondent at her address last known to the Board, and that if the Respondent moved without informing the Board of Nursing as required by the Kansas Nurse Practice Act, Respondent is at fault, and that the Board served Respondent as required by law.

The Hearing Officer further inquires of the Respondent if she has moved and whether she informed the Board of the move. Respondent states she moved and has not yet informed the Board. The Hearing Officer goes off the record for a moment to review the statutes. The Hearing Officer goes back on the record and cites K.S.A 65-1117(c), which requires licensees to notify the Board of Nursing within 30 (thirty) days of any change in name or address. The same section states that lack of notice will not be a defense if the Board is not appropriately notified. The Hearing Officer overrules the objection of the Respondent.

The matter proceeds and the Hearing Officer inquires of the Respondent whether there are any objections to the Board's or Hearing Officer's authority to hear this matter. Respondent states there are no objections to the Board's or Hearing Officer's jurisdiction. The Hearing Officer inquires of the Respondent if she wants the charges in the Petition read to her. The Respondent states she is aware of the allegations and waives formal reading of the Petition.

WHEREUPON, the Hearing Officer informs the Respondent she has three options relating to the allegations in the Petition: she may deny or contest the allegations and proceed to hearing on whether the Respondent committed the acts alleged to determine whether she violated the Kansas Nurse Practice Act; she may stipulate or admit to the allegations in the Petition, whereupon there would be a finding that Respondent violated the Kansas Nurse Practice Act as alleged and the matter would proceed to disposition; or Respondent

may neither contest, nor admit, the allegations, whereupon, the Petitioner would state a factual basis for the violation, there would be a finding Respondent violated the Kansas Nurse Practice Act and the matter would proceed to disposition. The Hearing Officer inquires of the Respondent whether she understands her options. Respondent states she understands her options and stipulates and admits to the allegations stated in the Petition at paragraph 5, that she was convicted of a felony, but denies she has not been sufficiently rehabilitated to warrant the public trust. In response, the Petitioner moves for the admission of Petitioner's Exhibit #1, a certified copy of the journal entries of conviction and sentencing in the Respondent's criminal case. The Respondent states no objection to the Exhibit and it is admitted.

WHEREUPON, the Hearing Officer invites both sides to make statements or recommendations regarding rehabilitation. Both sides present their statements. In support of her position, Respondent moves for the admission of Respondent's Exhibits 1-4. Exhibit #1 is a December 9, 1993 letter from Charles Stebbins to Mr. Ted Baird; Exhibit #2 is a September 10, 1993 letter from Terri Jackson to "To Whom it May Concern;" Exhibit #3 is an Order of Probation in Respondent's criminal case, Johnson County District Court case number 93 CR 518; Exhibit #4 is a group of performance appraisals of the Respondent's nursing employment. Petitioner points out that Respondent has not presented any evidence of treatment since her conviction and that she currently is serving a four year probation.

After reviewing and considering all exhibits and testimony, the Hearing Officer makes the following Findings of Fact and Conclusions of Law, and issues the following Order.

#### FINDINGS OF FACT

1. The Respondent is licensed by the Kansas State Board of Nursing, having been issued license number 14-038710-102, with an expiration date of October 31, 1994.

2. Respondent was served a copy of the Petition and a Notice of Proceedings at address last known to the Board, 19905 Padbury Lane, Spring Hill, Kansas 66083-8988.

3. Respondent moved without notifying the Board of her move or change of address as required by the Board's statutes. The Notice was returned to the Board and re-sent to the Respondent at her current address, 21140 Oakleaf Dr., Bucyrus, Ks. 66013-9660.

4. Respondent has received the materials and is present for the hearing.

5. Respondent was convicted September 3, 1993, of attempted possession of cocaine, a class D felony, in the Johnson County District Court. (Petitioner's Exhibit #1)

6. Respondent was placed on probation for 48 (forty-eight) months, and is currently on probation. (Petitioner's Exhibit #1 and Respondent's Exhibit #3.)

7. Respondent submitted two exhibits and some testimony regarding her current status regarding substance abuse treatment. None of that information indicates any recent or current status of the Respondent. (Respondent's Exhibit #1 and #2.)

### CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction over this Respondent by virtue of her to practice as a registered professional nurse in the State of Kansas.

2. The Board of Nursing has jurisdiction over the subject-matter of this proceeding by virtue of the Board's authority to take disciplinary licensure action pursuant to K.S.A. 65-1120.

3. Respondent appears in person.

4. Respondent objected to proceeding with the hearing because of her very recent receipt of the Notice of Proceedings and copy of the Petition. This Officer ruled, based on the information in the Agency Record regarding service and the Respondent's statements, that service is proper. It is no defense to lack of notice under K.S.A. 65-1117(c), if a licensee moves and fails to notify the Board of Nursing of that change within 30 days. Notice and Service in this case is, therefore, is found to be sufficient.

5. Pursuant to K.S.A. 77-514, the Board of Nursing may designate a Hearing Officer to preside over these proceedings.

6. Pursuant to K.S.A. 65-1120(a), the Board of Nursing may deny, revoke, limit, suspend, or publicly or privately censure the license to an applicant or licensee if the applicant or licensee is found to have committed any of the violations identified in K.S.A. 65-1120 (a) (1)-(8).

7. Based on the exhibits and testimony presented, Respondent is guilty of a felony.

8. The investigation conducted indicates Respondent is in the first year of a four year probation. Respondent is therefore, not sufficiently rehabilitated to warrant the public trust.

9. Respondent has violated the Kansas Nurse Practice Act, specifically 65-1120(a)(2), having been found guilty of a felony by a state district court, and after investigation, is not sufficiently rehabilitated to warrant the public trust in light of her four probation.

#### ORDER

1. Based on all testimony and exhibits presented in this hearing, IT IS THEREFORE ORDERED that the registered professional nurse license of Cheryl Drummond, license no. 14-038710-102 shall be suspended for a period of two (2) years. The suspension shall be stayed after Respondent been enrolled and successfully participated for six (6) months in the Kansas Nurse Assistance Program. In order to maintain the stay, Respondent shall;

- A. Continue her participation in the KNAP program;
- B. Maintain and meet all district court probationary requirements:
- C. All violations, whether or not they result in revocation of the probation, will be reported to the Board within ten (10) days.
- D. Probationary reports are requested to be submitted to the Board on a quarterly basis.
- E. Any positive drug/alcohol screens submitted shall be reported to the Board within ten (10) days.

- F. Respondent shall cause her employer to submit reports to the Board's Practice Specialist on a quarterly basis. Those reports shall be submitted by Respondent's employers, whether or not her employment is in nursing. If the reports relate to nursing employment, such reports shall be submitted by her immediate nursing supervisor who shall be a licensed registered professional nurse. The reports shall include information about Respondent's attendance; Respondent's job performance; Respondent's professional attitude; changes in job hours or duties, whether a promotion of demotion; and any other statements the reporter wants to present to the Board.
- G. Respondent must report to the Board's practice specialist any change in her employment, whether in the profession of nursing or not, within ten (10) days of the change.
- H. Any question regarding the provisions of these conditions shall be directed only to the Board's practice specialist.
- I. Respondent is required to disclose these provisions to her employers.

Assuming Respondent submits a timely filed appropriate application for renewal of her license, her license shall be

renewed under these same conditions and this order remaining in effect.

IT IS SO ORDERED.

  
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Helen R. Rice  
Hearing Officer

Prepared by: Mark S. Braun

**NOTICE REGARDING RELIEF FROM THIS ORDER**  
**STATEMENT OF APPEAL RIGHTS**

This is an Initial Order. The parties to whom this Initial Order is issued may file a petition for review with the Agency Head within fifteen (15) days after service of this order. The Petition for review must state the specific grounds upon which relief is requested. Unless a later date is stated within the Initial Order, a stay is granted, or the order is reviewed, an Initial Order shall become a final order without further notice or proceedings thirty (30) days after the date of service as indicated by the attached certificate of service.



CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing INITIAL ORDER was served by depositing same in the United States Mail, first class postage prepaid, this 14<sup>th</sup> day of September, 1994 to:

Cheryl Drummond  
21140 Oakleaf Dr.  
Bucyrus, Ks. 66013-9660

and

Mark S. Braun  
Assistant Attorney General  
Disciplinary Counsel  
Kansas State Board of Nursing  
Landon State Office Building  
900 SW Jackson, Suite 551-S  
Topeka, Kansas 66612-1230



Diane M. Glynn, J.D., R.N.  
Practice Specialist