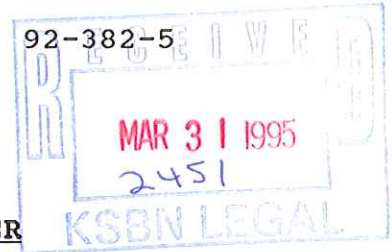


BEFORE THE KANSAS STATE BOARD OF NURSING  
LONDON STATE OFFICE BUILDING  
900 S.W. JACKSON RM 551-S  
TOPEKA, KANSAS 66612-1230

IN THE MATTER OF:                    )  
  )  
MARY ZAHNER                            )  
LICENSE NO. 14-057914-011        )

CASE NO. 92-382-5



CONSENT AGREEMENT AND FINAL ORDER

COMES NOW the Petitioner, the Kansas State Board of Nursing, hereinafter referred to as the "Board", by and through Assistant Attorney General Mark S. Braun, and the Respondent, Mary Zahner, by and through her counsel, Edward J. Hund, Cordry, Hund and Hartman, Wichita, Kansas, and respectfully request the Board, or its designee, to approve this Consent Agreement and Final Order as the resolution in this case. By entering into this Consent Agreement and Final Order, both parties waive their right to a full administrative hearing pursuant to K.S.A. 65-1120(b) and K.S.A. 77-523. This Consent Agreement and Final Order affects the Respondent's license to practice as a registered professional nurse (R.N.) in Kansas.

**AGREEMENT**

It is the intent and purpose of this Consent Agreement and Final Order to provide for settlement of all issues currently before the Board without the necessity of a formal hearing. Respondent, with the advice of counsel, knowingly and intelligently waives her right to a hearing on the issues currently before the Board relating to her license. The parties agree as follows:

1. Both parties to this Agreement acknowledge that the Board received information and conducted an investigation as to whether Respondent violated the Kansas Nurse Practice Act. Based on that investigation, there are reasonable grounds to believe Respondent violated the Act.

2. Respondent, with advice of counsel, acknowledges and understands that: she has the right to a full and fair hearing on the allegations made by the Petitioner. At such hearing, the Petitioner would be required to present witnesses and evidence in support of the allegations. Respondent, through her counsel, would have the opportunity to cross-examine Petitioner's witnesses and present witnesses and evidence on her behalf. The matter would be decided on the evidence presented and a decision would include findings of fact and conclusions of law; the right to seek reconsideration of any adverse order issued by the Board and the right to seek judicial review of any adverse Board order or decision. Respondent, with the advice of counsel, understands that by entering into this Consent Agreement and Final Order, she is waiving all of the above-mentioned rights.

3. In lieu of proceeding to a full hearing, Respondent pleads no contest to Count I of the Petition. Count II is dismissed. Respondent, with the advice of counsel, understands that by pleading no contest to that count, she will be found to have violated Kansas Nurse Practice Act, and disciplinary action will be taken against her license.

4. Pursuant to the disciplinary remedies available in K.S.A. 65-1120, Respondent's license will be publicly censured. Further, Respondent shall meet the following conditions:

A. Respondent shall obtain six (6) hours of continuing nursing education by September 1, 1995. Three of those hours are to be in the area of nursing and the law or legal aspects of nursing. The other three hours are to be in the area of nursing delegation. These six hours must be pre-approved by the Board's practice specialist. These six hours are in addition to, and not to be counted toward, the thirty (30) hours of mandatory continuing nursing education for license renewal. Proof of earning the six hours shall be submitted to the Board's practice specialist within ten (10) days of taking the classes.

B. Respondent shall pay twenty-five (\$25.00) dollars in costs to the Board of Nursing. Said costs shall be paid by cashier's check or money order payable to the Board of Nursing within 30 days after the Agreement and Order are approved by the Board or its designee.

5. By signing this Consent Agreement and Final Order, Respondent acknowledges she has read the entire document; that she has obtained counsel who advised her in this matter and that she is satisfied with the representation in this matter and agrees to be bound by this document.

6. Should the Board, or its designee, modify or change the Consent Agreement and Final Order in any manner unsatisfactory to either party, either party may withdraw its consent and the matter

will proceed to hearing. Further, if the Consent Agreement and Final Order, as signed by the parties, is not acceptable to the Board, or its designee, neither party shall be bound to any representations made in this agreement.

#### FINDINGS OF FACT

1. Respondent is licensed to practice as a registered professional nurse (R.N.) in the State of Kansas, having been issued license number 14-057914-011, with an expiration date of January 31, 1995. Respondent has timely filed her renewal application and is entitled to practice pursuant to the 'continuing practice rule of the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq..

2. The Board received information and conducted an investigation into alleged violations of the Kansas Nurse Practice Act by the Respondent.

3. The Board found there were reasonable grounds to believe Respondent violated the Kansas Nurse Practice Act.

4. On or about November 17, 1992, while licensed and employed as an R.N. in the State of Kansas, Respondent failed to follow procedures and policies designed to safeguard the patient in violation of K.S.A. 65-1120(a)(6), as defined by K.A.R. 60-3-110(a)(3), by leaving her floor. Respondent was the only R.N. on duty and left her patients unattended for approximately 10 minutes.

5. Respondent, with the advice of counsel, pleads no contest to Count I of the Petition. Count II is dismissed

6. In lieu of proceeding to a full administrative hearing, the parties have agreed to enter into and be bound by this Consent Agreement and Final Order.

7. The Parties understand and acknowledge that, pursuant to K.S.A. 45-215 et seq., the signed original of the Consent Agreement and Final Order shall remain in the custody of the Board as a public record.

#### CONCLUSIONS OF LAW

1. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter pursuant to K.S.A. 65-1120.

2. Respondent is represented by counsel. Through the advice of counsel, Respondent is aware of her rights under the United States and Kansas Constitutions, the Kansas Nurse Practice Act and the Kansas Administrative Procedures Act, and as stated in paragraph 2 of the Agreement section of this document. Based on the knowledge of her rights and advice of counsel, Respondent has knowingly, intelligently, and voluntarily waived her rights and entered into this Consent Agreement and Final Order.

3. Respondent has entered a plea to Count I. Based on that plea, Respondent is found to violated the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq.

4. Respondent is guilty of unprofessional conduct in that on or about November 17, 1992, she failed to follow procedures and policies designed to safeguard the patient, in violation of K.S.A. 65-1120(a)(6), as defined K.A.R. 60-3-110(a)(3).

5. The Petitioner and Respondent have entered into this Consent Agreement and Final Order which, when signed by both parties and the Board or its designee, will be binding on the parties and the Board.

**FINAL ORDER**

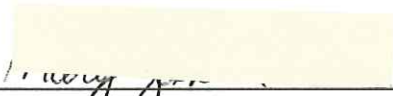
WHEREFORE, based on the foregoing Agreement, Findings of Fact and Conclusions of Law, IT IS THEREFORE ORDERED that the following action will be taken against the Respondent:

Pursuant to the disciplinary remedies available in K.S.A. 65-1120, Respondent's license will be, and is hereby, publicly censured. Further, Respondent shall meet the following conditions:

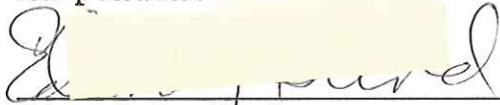
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B. Respondent shall pay twenty-five (\$25.00) dollars in costs to the Board of Nursing. Said costs shall be paid by cashier's check or money order payable to the Board of Nursing within 30 days after the Agreement and Order are approved by the Board or its designee.

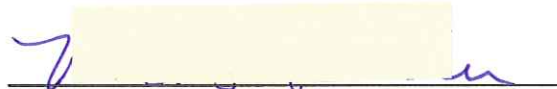
IN WITNESS WHEREOF, the parties hereunto execute this Consent Agreement and Final Order:

  
\_\_\_\_\_  
Mary Zahner  
Respondent

3/17/95  
DATE

  
\_\_\_\_\_  
Edward J. Hund  
Attorney for the Respondent

3-17-95  
DATE

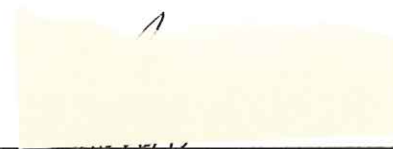
  
\_\_\_\_\_  
Mark S. Braun  
Assistant Attorney General  
Board Disciplinary Counsel

3-21-95  
DATE

WHEREFORE, the provisions stated above are hereby adopted and made the Final Order of the Kansas State Board of Nursing.

IT IS SO ORDERED.

Dated this 31st day of March, 1995

  
\_\_\_\_\_  
Board Representative or  
Board Designee

CERTIFICATE OF SERVICE

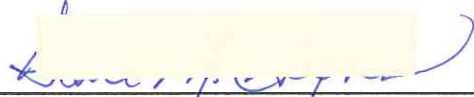
This is to certify that a copy of this CONSENT AGREEMENT AND FINAL ORDER was served by placing same in the United States Mail, first class, postage prepaid this 31<sup>st</sup> day of April, 1995, to:

Mary Zahner  
8616 W University  
Wichita, Kansas 67209

Edward J. Hund  
Cordry, Hund, and Hartman  
PO Box 47528  
Wichita, Kansas 67201-7528

and by hand delivering a copy to

Mark S. Braun  
Assistant Attorney General  
Disciplinary Counsel  
Kansas State Board of Nursing  
900 S.W. Jackson Rm 551-S  
Topeka, Kansas 66612-1230

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