

BEFORE THE KANSAS STATE BOARD OF NURSING

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

**IN THE MATTER OF
DEBORAH M. OCHOA
License No. 14-057972-052**

**Case No. 07-1167-0, 91-058-5
OAH No. 08BN0051**

FILED

AUG 6 2009

KSBN

07-1167-0-58-5

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ORDER TO STAY SUSPENSION

Now on this 10th day of August, 2009, the petitioner, the Board, through counsel Mark A. Knight, moves to Stay the suspension of Respondent's license to practice nursing in the state of Kansas. Respondent's license to practice nursing was suspended following a finding in KSBN case number 07-1167-0 that Respondent failed to meet conditions and requirements of the October 31, 2007 Consent Agreement and Final Order entered in KSBN case number 91-058-5. Petitioner has received documentation showing that the Respondent has complied with the conditions and requirements of the Consent Agreement and Final Order which would impose a Stay of the Suspension.

The Presiding Officer orders that the Suspension of Respondent's license to practice nursing in the state of Kansas is Stayed.

The Presiding Officer orders that all conditions and requirements of the Consent Agreement and Final Order entered in KSBN case number 91-058-5 and dated October 31, 2007, remain in effect.

IT IS SO ORDERED.

Sandra L. Sharon, Presiding Officer

Mark A. Knight, #12183
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

NOTICE OF RIGHT TO APPEAL

The procedures available and time limitations for seeking review or other relief as follows:

Any party, within fifteen (15) days after service of this notice, may file a petition for review with the agency head, send your request to: Mary Blubaugh, Executive Director, Board of Nursing, Landon State Office Bldg., Suite 1051, 900 SW. Jackson, Topeka, KS 66612-1230.

The petition for review shall state its basis, pursuant to K.S.A. 77-527.

CERTIFICATE OF SERVICE

On the 10th day of August, 2009, I hereby certify that copies of the above and foregoing ~~ORDER TO STAY SUSPENSION~~, were placed in the U.S. Mail, postage prepaid, addressed to:

Deborah M. Ochoa
7150 N Highland Ct
Gladstone, MO 64118

Mark A. Knight
Assistant Attorney General

FILED

BEFORE THE KANSAS STATE BOARD OF NURSING

OCT 31 2007

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

KSBN

**IN THE MATTER OF
DEBORAH M. OCHOA
License No. 14-057972-052**

Case No. 91-058-5

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 31st day of Oct., 2007, the Kansas State Board of

Nursing, represented by Assistant Attorney General, Mark A. Knight, and the Licensee, Deborah M. Ochoa, hereby enter into this agreement and proffer evidence and the hearing officer adopts those recommendations and makes the following findings of fact and orders:

AGREED FINDINGS OF FACT

1. Licensee is licensed to practice nursing in Kansas through 5/31/2008. The Kansas State Board of Nursing (Board) has jurisdiction over the Licensee and the subject matter of this action.
2. Licensee's address of record is 7150 N Highland Ct, Gladstone, MO 64118.
3. The Licensee understands that pursuant to K.S.A. 77-515, Licensee may be represented at Licensee's expense by, an attorney during these proceedings.
4. After an investigation, the Board's investigative committee found reasonable grounds to believe that the Licensee violated the Kansas Nurse Practice Act, K.S.A. 65-1120, and referred this matter for further proceedings.
5. 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 Licensees 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.
6. (a) On or about 1/29/1998, Licensee was convicted of No Drivers License on Person, a misdemeanor, in the Municipal Court of Wichita, Kansas, case number 97-C32723.

(b) On or about 1/29/1998, Licensee was convicted of Driving Under the Influence, a misdemeanor, in the Municipal Court of Wichita, Kansas, case number 97-C32723.

(c) On or about 7/21/1998, Licensee was convicted of Criminal Trespass, a misdemeanor, in the Municipal Court of Wichita, Kansas, case number 98-C61660.

(d) On or about 3/3/1999, Licensee was convicted of Possession of Drug Paraphernalia, a misdemeanor, in the Municipal Court of Wichita, Kansas, case number 97-C126239.

(e) On or about 4/26/2000, Licensee was convicted of No Drivers License on Person, a misdemeanor, in the Municipal Court of Mulvane, Kansas, case number 00-1140T.

(f) Licensee submitted reinstatement applications to the KSBN on or about 9/19/2006, 2/27/2007, and 3/5/2007. In each of the reinstatement applications Licensee answered "No" to the question regarding having been convicted of a misdemeanor or a felony.

(g) Licensee advised that she abused drugs in the past but has not abused drugs for more than five years. Licensee advised that her past criminal convictions stemmed from the abuse of drugs.

(h) On or about 8/9/2007, Licensee entered the Kansas Nurses Assistance Program for an Extended Evaluation of twelve (12) months.

7. The above incidents are violations of the nurse practice act. The Licensee agrees that the board is prepared to prove that Licensee has violated: 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; K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board; K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol; K.S.A. 65-1120(a)(2) "to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the Licensee or licensee establishes sufficient rehabilitation to warrant the public trust..."

8. Licensee 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. Licensee is waiving those rights and voluntarily entering into this agreement instead of proceeding to such a hearing.

CONCLUSIONS OF LAW

9. 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 Licensees 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.

10. Licensee has violated the Kansas Nurse Practice Act as follows:

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 by K.A.R. 60-3-110(d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board.

Count 3: 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 4: K.S.A. 65-1120(a)(2) "to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the Licensee or licensee establishes sufficient rehabilitation to warrant the public trust..."

POLICY STATEMENT

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

DISPOSITION

12. 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.

13. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that this Consent Agreement will continue through any renewal periods of Licensee's nursing license until Licensee completes each of the conditions and requirements of this agreement. Further, the parties agree that in the event of a lapse of Licensee's nursing license, reinstatement of Licensee's nursing license shall be contingent upon this Consent Agreement and Final Order remaining in effect until Licensee completes each of the conditions and requirements of this agreement.

14. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the **Licensee's license to practice nursing in Kansas is immediately suspended. The suspension will be stayed as long as the requirements and conditions of this agreement are met.**

15. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, **the parties agree that the Licensee's license to practice nursing in Kansas is immediately limited.** The limitations placed on the license and described below will remain in place until the requirements and conditions of this agreement are met or until the requirements and conditions of this agreement call for the modification of the limitations.

16. The Kansas State Board of Nursing will not take additional disciplinary action against Licensee's nursing license for the violations stated above as long as Licensee completes each of the following conditions and requirements:

(a) **Licensee shall return his or her current license card to the Board with this Consent Agreement. Licensee shall receive a license card which shall be issued with an "S" placed in the status code portion of the license card to indicate that the license is suspended with a Stay. The card will have an "L" indicating the limitations on the practice.**

(b) **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. Noncompliance with KNAP is a violation of this agreement.

(c) **Licensee 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 Licensee.

Licensee agrees that a Positive Drug Screen is a violation of this agreement.

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

(e) The Licensee **shall immediately inform all employers and prospective employers of this Consent Agreement and the Final Order.**

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

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

(h) Licensee 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) **Licensee shall not practice without onsite supervision by a qualified nurse, for a period of one year from the effective date of this consent agreement and final order.**

The parties agree that this provision prohibits the Licensee from practicing nursing unless the supervising nurse is present within the same facility as the Licensee and the supervising nurse is available for periodic inspection of Licensee's nursing tasks.

(j) **Licensee will Submit Reports from the Licensee'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: Once Licensee is employed in a position that utilizes his or her nursing license, or if Licensee is currently employed in a position that utilizes his or her nursing license, a nursing performance report is due by the 10th day of every third Month until Licensee has caused the submission of four (4) separate nursing performance reports. The report shall be prepared and signed by Licensee's immediate supervisor or by an R.N. who evaluates Licensee's performance on a regular basis and be based on the following guidelines: (1) Incorporation of information on facility letterhead stationary is preferred. (2) Letter format is acceptable, with the date of the report identified. (3) Evaluator's name, telephone number, address, license number and nursing credentials. (4) Licensee's name, address, telephone number, license number. (5) A short explanation of the Licensee's work performance in the following areas: (a) Standards met regarding facility policies and procedures. (b) Compliance with the Kansas Nurse Practice Act. (c) Supervisor evaluations. (d) Overall appropriateness. (e) Interactions with patients. (f) Interactions with staff and administration.

(k) **Licensee 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.

17. Licensee acknowledges and agrees that Licensee is responsible for the costs related to satisfying the conditions and requirements of this Consent Agreement. Licensee further acknowledges and agrees that to provide the Board with false information regarding compliance with this Consent Agreement is a violation of this Consent Agreement.

18. If Licensee does not meet these conditions and requirements, the Kansas State Board of Nursing may request additional sanctions against Licensee's license or application for a license. Licensee would be sent notice of such action and would be entitled to a hearing as to whether Licensee had complied with this Consent Agreement, but Licensee could not contest the violations listed in this agreement.

19. All parties understand that if an action based on failure to meet the conditions and requirements of this Consent Agreement is filed, K.S.A. 77-531 requires the Notice of Hearing to be served upon the Licensee and the Licensee's attorney of record, if any. All parties agree that only serving the Notice of Hearing upon the Licensee will be proper service and it is the Licensee's responsibility to contact his or her attorney, if any, in reference to the action.

20. Licensee acknowledges and agrees that upon a first finding of Licensee not complying with the conditions or requirements of this Consent Agreement, the Stay of Suspension of Licensee's license to practice nursing in the State of Kansas, shall be lifted for a period of six months from the date of said finding. Licensee will not be allowed to practice nursing in the state of Kansas during the period of suspension.

21. Licensee acknowledges and agrees that upon a second or subsequent finding of Licensee not complying with the conditions or requirements of this Consent Agreement the Stay of Suspension of Licensee's license to practice nursing in the State of Kansas, shall be lifted for a period of one year from the date of said finding. Licensee will not be allowed to practice nursing in the state of Kansas during the period of suspension.

22. Licensee acknowledges and agrees that upon the Stay of Suspension being lifted due to a finding of non-compliance with this Consent Agreement, the Suspension will not again be Stayed until the Licensee has, following the prescribed time period of suspension, provided written verification to the Board that Licensee is in compliance with all conditions and requirements of this Consent Agreement. Upon the Licensee providing said written verification the suspension will again be stayed.

23. The Board will inactivate this case file once Licensee satisfies this agreement. This agreement does not prohibit the agency from taking disciplinary action against Licensee's license for any additional or cumulative violation of the Kansas Nurse Practice Act committed by the Licensee before or after this agreement is entered into.

24. 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 and is a public record.

25. After successful completion of all of the conditions and requirements of this Consent Agreement by the Licensee, the Consent Agreement will be satisfied and the case will be inactivated.

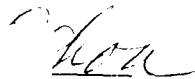
26. By signing this Consent Agreement and Final Order, Licensee acknowledges that Licensee has read and understands the entire document, and agrees to be bound by its terms. This Consent Agreement and Final Order constitute the entire agreement of the parties and may not be modified except in writing and approved by all parties.

27. 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 CONSENT AGREEMENT AND FINAL ORDER.

IT IS SO ORDERED.

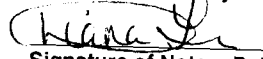
Deborah M. Ochoa
Licensee
7150 N Highland Ct
Gladstone, MO 64118



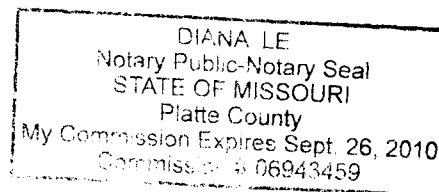
Deborah M. Ochoa must sign before a Notary Public.

State of Kansas, County of Clay ss.
SUBSCRIBED AND SWORN TO before me by Deborah M. Ochoa

on this 22 day of October, 2007.


Signature of Notary Public

My Commission Expires Sept 26, 2010
(Notary Public Seal)





Mark A. Knight, #12183
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

Sandra L. Sharon, Presiding Officer

CERTIFICATE OF SERVICE

On the 2nd day of November, 2007, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Deborah M. Ochoa
7150 N Highland Ct
Gladstone, MO 64118

Mark A. Knight, #12183
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612