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MAY 03 2016

KSBN

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

IN THE MATTER OF
AMY JO BUTLER

OAH no. 15BN0036

License No. 14-594410-091
Case No. 11-1737-3 and 14-975-3

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INITIAL AGREED ORDER

NOW ON THIS 2nd day of May, 2016, the Kansas State Board of Nursing, represented by Assistant Attorney General, Bryce D. Benedict, and the Respondent, Amy Jo Butler, by and through her counsel, Curtis Brown, hereby enter into this agreement and proffer evidence and the hearing officer adopts those recommendations and makes the following findings of fact and orders:

1. Respondent is licensed to practice nursing in the state of Kansas. The Kansas State Board of Nursing (KSBN) has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent's address of record is P.O. Box ⁹⁰¹⁵ ~~3335~~ Pueblo, CO ⁸¹⁰⁰⁸ ~~81005~~.
3. The Respondent understands that pursuant to K.S.A. 77-515, respondent may be represented at respondent's expense by, an attorney during these proceedings.
4. Respondent acknowledges that this agreement is an open record pursuant to the Kansas Open Records Act, K.S.A 45-215 et seq., and may be published or disseminated notwithstanding any state or federal law otherwise restricting public access to, or dissemination of, any personal or health care information, or any information or records of substance abuse evaluation and/or treatment contained herein.
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 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.

6. 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.

AGREED FINDINGS OF FACT

7. The respondent stipulates to the following::
- a. While completing a pre-employment drug screen for Hays Medical, a UDS was positive for THC.
 - b. Employer referred respondent to KNAP on the 23rd day of April, 2009.
 - c. While in KNAP, on the 31st day of October, 2011, respondent tested positive for morphine.
 - d. This positive UDS was treated as a relapse and her time in the program preceeded to three (3) years from the date of relapse.
 - e. On the 12th day of September, 2013, respondent submitted a renewal, she answered "no" to the question "Have you ever been convicted of a misdemeanor..."
 - f. Respondent was convicted of a misdemeanor on the 10th day of June, 2013 and placed on probation.
 - g. Respondent's KNAP case was closed unsuccessfully on or about the 2nd day of June 2014.
 - h. Respondent was suspended from Good Samaritan of Ellis, Kansas for allegations of theft of narcotics.
 - i. There were discrepancies in the charting timeline of narcotics being administered to patients at Good Samaritan.

- j. On the 29th day of May 2014, respondent confessed to stealing narcotics when working at good Samaritan, and she was arrested that same day.
- k. Respondent admitted to diverting narcotic drugs from Good Samaritan.

AGREED VIOLATIONS

8. The respondent committed the following violations of the nurse practice act. The Respondent agrees that the board is prepared to prove that respondent has violated:

Count 1: K.S.A. 65 1120(a)(1) unprofessional conduct by fraud or deceit in practicing nursing.

Count 2: K.S.A. 65-1120(a)(6), unprofessional conduct, by inaccurately recording, falsifying or altering documents.

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

Count 4 K.S.A. 65-1120(a)(7), willfully and repeatedly violation provisions of the Kansas Nurse Practice Act by failing to complete the requirements of impaired provider program KAR 60-3-110(s).

Count 5: K.S.A. 65-1120(a)(4) unable to practice with skill and safety due to current abuse of drugs or alcohol.

Count 6: K.S.A. 65 1120(a)(6) to be guilty of unprofessional conduct as defined as defined by rules and regulations of the board by violating the existing policies and procedures of the medical facility KAR 60-3-110 (c).

POLICY STATEMENT

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

DISPOSITION

10. By entering into this Initial Agreed Order (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.

11. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that this Initial Agreed Order will continue through any renewal periods of respondent's reinstated 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, another reinstatement of Respondent's nursing license shall be contingent upon this Initial Agreed Order remaining in effect until Respondent completes each of the conditions and requirements of this agreement.

12. 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 six (6) months. The suspension will be stayed as long as the requirements and conditions of this agreement are met.

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

(a) Respondent shall 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. The Board is notified by KNAP when the respondent has enrolled in their program. When the Board is notified that the respondent has enrolled in KNAP, her license to practice nursing will be reinstated. Noncompliance with KNAP is a violation of this agreement.

(b) Respondent must submit to random drug screens as determined or selected 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) The respondent shall immediately inform all employers and prospective employers of this Initial Agreed Order.

(d) The Respondent shall only work in nursing positions where she is supervised by an RN at all times. Supervised practice means the supervisor must be on site with the physical ability to spot check work.

(e) Respondent shall not work as a director of nursing or in a charge or supervising position while these restrictions on her license continue.

(f) Respondent shall not seek or accept employment with a nursing registry, a temporary nursing service or agency, a nursing home, a home health care service or agency, or as a private duty nurse without prior written consent of the Board for the term of this Agreement.

(g) 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:

If the Respondent is unemployed, prior to respondent securing employment that utilizes her nursing license, respondent is to mail to the Kansas State Board of Nursing a statement indicating that respondent has not yet secured employment which utilizes respondent's nursing license. This statement is due by the 10th day of each month beginning the next month after signing this Initial Agreed Order. (A statement from the respondent that she has not yet secured employment in nursing, is not a nursing performance report).

Once respondent is employed in a position that utilizes his or her nursing license, or if respondent is currently employed in a position that utilizes his or her nursing license, a nursing performance report is due by the 10th day of each of the months of January, April, July, and October, to begin with the first such month after the effective date of this order, and continuing until four (4) separate nursing performance reports have been received.

The report shall be prepared and signed by respondent's immediate supervisor or by an R.N. who evaluates respondent's performance on a regular basis and be based on the following guidelines:

(1) The evaluation should be submitted by respondent's supervisor on respondent's employer's **facility letterhead stationary**.

(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) Respondent's name, address, telephone number, license number.

(5) A short explanation of the respondent'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.

(h) Respondent shall send a money order for \$100.00 to the Board upon entering into this agreement to pay the cost of this action.

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

(j) 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.

(k) 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.

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

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

16. All parties understand that if an action based on failure to meet the conditions and requirements of this 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 his or her attorney, if any, in reference to the action.

17. Respondent acknowledges and agrees that if any action based on failure to meet the conditions and requirements of this Initial Agreed Order is filed the conditions of this 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.

18. Respondent acknowledges and agrees that upon a first finding of Respondent not complying with any of the conditions or requirements of this Initial Agreed Order, the Stay of Suspension of Respondent's license to practice nursing in the State of Kansas, may be lifted for a period of at least six months from the date of said finding or other disciplinary action may be taken consistent with K.S.A 65-1120(a). 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 Initial Agreed Order to remain in effect during any period of suspension.

19. Respondent acknowledges and agrees that upon a second or subsequent finding of Respondent not complying with any of the conditions or requirements of this Initial Agreed Order the Stay of Suspension of Respondent's license to practice nursing in the State of Kansas, shall be lifted for at least a period of one year from the date of said finding or other disciplinary action may be taken consistent with K.S.A 65-1120(a). 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 Initial Agreed Order remain in effect during the period of suspension.

20. Respondent acknowledges and agrees if the Stay of Suspension is lifted due to a finding of non-compliance with any of the conditions or requirements of this Initial Agreed Order, the Suspension will not again 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 Initial Agreed Order. Upon the Respondent providing said written verification the suspension will again be stayed.

21. 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.

22. 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.

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

24. By signing this Initial Agreed Order, Respondent acknowledges that Respondent has read and understands the entire document, and agrees to be bound by its terms. This 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 this Initial Agreed Order is the date shown on the certificate of service.

25. 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.

26. Disciplinary counsel shall serve a copy of this order on respondent counsel.

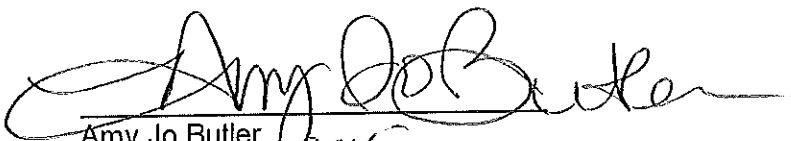
IN WITNESS WHEREOF, the parties hereto execute this INITIAL AGREED ORDER.

IT IS SO ORDERED.

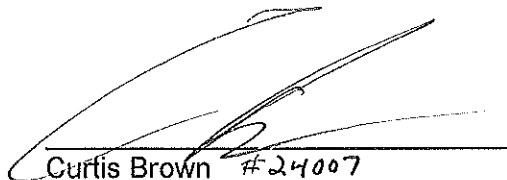


Sandra Sharon
Administrative Law Judge

APPROVED BY:

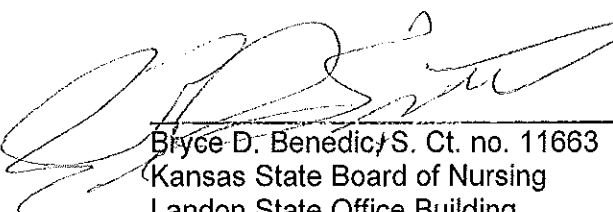


Amy Jo Butler
P.O. Box 3335-9015
Pueblo, CO 81005 81008
Respondent



Curtis Brown #24007

~~BIRD-SCHWARTZ & PARK~~ *Glassman, Bird, Brown & Powell*
200 West 13th Street
Hays, Kansas 67601-0727
Attorney for Respondent



Bryce D. Benedict S. Ct. no. 11663
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

NOTICE

Pursuant to K.S.A. 77-529, either party may request a review of this initial 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 initial 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.

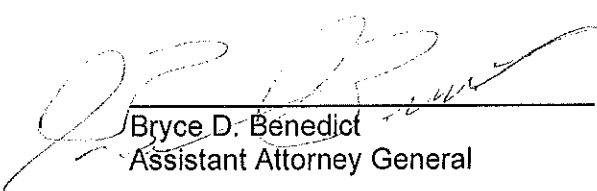
Pursuant to K.S.A. 77-531, if the initial order is served by mail, three days are added to the time limits set out above.

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 30 day of May, 2016, I mailed a copy of the file stamped INITIAL AGREED ORDER to:

Curtis Brown
~~BIRD-SCHWARTZ & PARK~~ *Glassman, Bird, Brown & Powell*
200 West 13th Street
Hays, Kansas 67601-0727



Bryce D. Benedict
Assistant Attorney General

FILED

AUG 20 2014

KSBN

BEFORE THE KANSAS STATE BOARD OF NURSING

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

IN THE MATTER OF AMY JO BUTLER

License No. 14-594410-091

Case No. 11-1737-3 and 14-975-3

PETITION

COMES NOW the petitioner, the Kansas State Board of Nursing, by and through Assistant Attorney General assigned to the Board, Michael R. Fitzgibbons, and for its cause of action states that:

1. Respondent, Amy Jo Butler, is licensed to practice nursing in Kansas through September, 2015. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 1102 Woodbury Ellis, Kansas 67637.
3. 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.
4. 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(a) is established.

FACTS COMMON TO ALL COUNTS

5. The facts below are common to all counts:
 - a. While completing a pre-employment drug screen for Hays Medical, a UDS was positive for THC.
 - b. Employer referred licensee to KNAP on the 23rd day of April, 2009.

- c. While in KNAP, on the 31st day of October, 2011, licensee tested positive for morphine.
- d. This positive UDS was treated as a relapse and her time in the program preceded to three (3) years from the date of relapse.
- e. On the 12th day of September, 2013, licensee submitted a renewal, she answered "no" to the question "Have you ever been convicted of a misdemeanor..."
- f. Licensee was convicted of a misdemeanor on the 10th day of June, 2013 and placed on probation.
- g. Licensee was also arrested on a probation violation on the 18th day of April, 2013.
- h. Licensee entered into a Diversion Agreement on or about the 23rd day of October, 2013.
- i. Licensee agreed with and stipulated to the above facts and the related violations of the Kansas Nurse Practice Act.
- j. According to the report, it is further alleged that while on Diversion with the Kansas Board of Nursing, licensee's KNAP case was closed unsuccessfully on or about the 2nd day of June 2014.
- k. This is a violation of licensee's Diversion Agreement in which she would be compliant with the KNAP program.
- l. It is alleged that licensee UDS was positive with no valid prescription on or about the 30th of May, 2014.
- m. It is alleged that licensee was suspended from Good Samaritan, Ellis, Kansas for allegations of theft of narcotics and criminal charges are pending.
- n. There were discrepancies in the charting timeline of narcotics being administered to patients.
- o. Licensee was shown video footage of licensee putting medication in her pocket.
- p. On the 29th day of May 2014, licensee confessed to stealing narcotics when working.

q. Licensee was terminated from her employment on the 29th day of May 2014.

r. Licensee admitted to diverting narcotic drugs.

VIOLATIONS

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

Count 1: K.S.A. 65 1120(a)(1) unprofessional conduct by fraud or deceit in practicing nursing.

Count 2: K.S.A. 65-1120(a)(6), unprofessional conduct, by inaccurately recording, falsifying or altering documents.

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

Count 4 K.S.A. 65-1120(a)(7), willfully and repeatedly violation provisions of the Kansas Nurse Practice Act by failing to complete the requirements of impaired provider program KAR 60-3-110(s).

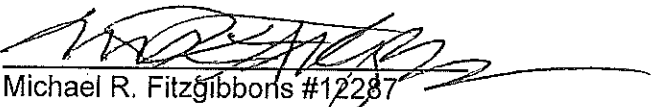
Count 5: K.S.A. 65-1120(a)(4) unable to practice with skill and safety due to current abuse of drugs or alcohol.

Count 6: K.S.A. 65 1120(a)(6) to be guilty of unprofessional conduct as defined as defined by rules and regulations of the board by violating the existing policies and procedures of the medical facility KAR 60-3-110 (c).

WHEREFORE, petitioner requests a finding that the respondent has violated the Nurse Practice Act, that respondent violated the terms and condition of her diversion, that the stay on the proceedings be lifted, that respondent's license to practice nursing in Kansas be revoked, and that costs of this action be assessed to the respondent in the amount of \$70.00.

Respectfully submitted,

Derek Schmidt
Kansas Attorney General

By: 

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