

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: )  
 )  
RICHARD CHATTERTON )  
LICENSE NO. 14-070018-061 )

CASE NO. 95-0537-2  
96-0082-2

**INITIAL ORDER**

Now on this 26th day of November, 1996, the above-captioned matter comes on for a hearing before Terry E. Beck, the Board's designated Hearing Officer. The Petitioner appears by and through Assistant Attorney General Mark S. Braun, Disciplinary Counsel for the Board. The Respondent, Richard Chatterton, appears in person and without counsel.

The Hearing Officer informs the Respondent that, as in the telephone conference early on in this case, he is informing the Respondent of his right to obtain an attorney in this matter and that if he wishes to obtain counsel, these proceedings can be continued in order for Respondent to obtain counsel. The Respondent states he understands, but he wishes to proceed without counsel. The Hearing Officer accepts the Respondent's waiver of counsel and finds that it is a continuing waiver of counsel in this case. The Hearing Officer inquires whether the Respondent is ready to proceed to a hearing. The Respondent states he is ready to proceed to hearing.

The Hearing Officer notes that this matter is set for hearing on the Amended Petition filed by the Petitioner. The Hearing Officer notes that the Record reflects this matter was filed in March, 1996, and that in August, 1996, leave was granted allowing the Petitioner to file an Amended Petition. The Hearing Officer inquires of the Respondent if he received the Petition and the Amended Petition. Respondent states he received both documents. The Hearing Officer further inquires whether the Respondent understands the nature of the allegations contained in the Amended Petition. Respondent states he understands the nature of the allegations.

The Hearing Officer informs the Respondent that this matter will proceed to hearing; that the Petitioner has the burden to establish or prove the violations alleged in the Petition; and that these proceedings are being conducted pursuant to the Kansas Administrative Procedures Act. Respondent is further informed that: he may challenge any exhibits that may be offered; he will have the opportunity to cross-examine any witnesses presented by the Petitioner; he will have the opportunity to present witnesses and exhibits on his own behalf. Respondent is further advised that he may object to statements made by the witnesses, but if he has any objections, he will need to clearly state the basis or grounds for those objections. The Hearing Office inquires of the Respondent whether he understands these matters. The Respondent states he understands them.

The Hearing Officer inquires whether there are any preliminary matters. The Petitioner states there are two matters in the Petition which need to be clarified and/or amended. In the second line of Count I, there is mention of "... an I.U. site ..." That should read "... an I.V. site ..." In Count II, at the bottom line of page 2 and the top of

page 3, there is a statement alleging that the Respondent "...wrote pre-operative orders on a patient and signed the name of the certified registered nurse anesthetist (CRNA) to the orders. "The statement indicating the Respondent signed the name of the CRNA should be deleted, so that the allegation states that the Respondent "... wrote pre-operative orders on a patient." Further, as to Count II, there are alternative counts of unprofessional conduct charged pursuant to K.S.A. 65-1120(a)(6), as defined by K.A.R. 60-3-110(d) and (a). The last sentence of Count II should state: "Such conduct constitutes unprofessional conduct in violation of K.S.A. 65-1120(a)(6), as defined by K.A.R. 60-3-110(a)."

The Hearing Officer inquires whether the Respondent has any objections to the clarifications/amendments. The Respondent states no objections. The Amended Petition is further amended to clarify Count I as stated, and delete portions of Count II as stated.

The Hearing Officer inquires whether there are any further preliminary matters. The parties indicate there are no further preliminary matters.

The matter proceeds to hearing, whereupon the Petitioner calls the Respondent as the first witness. The Respondent is sworn in as a witness. Petitioner seeks admission of Petitioner's Exhibits No. 1-9. Petitioner's Exhibit No. 1 is a copy of Nurse's Notes dated 7-28-95. Petitioner's Exhibit No. 2 is a copy of Physician's notes from Northwest Kansas Regional Medical Center, dated 7/28/95. Petitioner's Exhibit No. 3 is a copy of an Emergency Record from Cheyenne County Memorial Hospital, dated 11/20/95. Petitioner's Exhibit No. 4 is a copy of Doctor's Orders dated 12/30/95. Petitioner's Exhibit No. 5 is a copy of PRN medications, dated 12/31/95 and the Patient Progress Record. Petitioner's Exhibit No. 6 is the original endorsement application containing Sections I and III, filed by

the Respondent. Petitioner's Exhibit No. 7 is the original Section II of the endorsement application submitted by the Respondent to the Colorado Board of Nursing, which was received by the Kansas Board. Petitioner's Exhibit No. 8 is a copy of a certified copy of Weld County Court document, case no. 92 C 3050, a petition and order changing the Respondent's name from Richard Kenneth Stark to Richard Kenneth Chatterton. Petitioner's Exhibit No. 9 contains 12 pages of documents, some with material on both sides and envelope from the 19th Judicial District, Greeley, Colorado. The documents consist of copies of journal entries of convictions and sentencings in District Court, Weld County, Colorado in Case No. 87CR501 and 88CR834. Respondent is given the opportunity to view each of the documents, states he has seen or recognizes all of them. Respondent states no objection to the admission of Petitioner's exhibit Nos. 1-9. The Hearing Officer admits Petitioner's Exhibit Nos. 1-9. The Petitioner completes his examination of the Respondent and rests.

Since he is not able to be cross-examined, Respondent is given the opportunity to make a response to the direct examination of the Respondent by the Petitioner. Respondent states that to most of the counts, he is either guilty or is not contesting them. However, there is one he states he not guilty of committing. Respondent wants the Hearing Officer to consider certain information in the disposition of this matter.

For clarification, the Hearing Officer reviews each count and inquires of the Respondent what his position is as to each count of the Amended Petition. Respondent admits to Count I, III, IV, and VI. Respondent states he in not guilty of Count II and V. The Hearing Officer informs the Respondent that if he admits to those counts, he is

admitting to violations of the Kansas Nurse Practice Act, for which disciplinary action will be taken against his license to practice in Kansas. Respondent states he understands what the admission will do. However, he wishes to make comments relating to the disposition.

The Hearing Officer finds that the Respondent has knowingly and intelligently admitted to Counts I, III, IV and VI. Further, he has waived his rights to further hearing on those four counts. The Hearing Officer inquires of the Petitioner his position in light of the admissions by the Respondent. The Petitioner moves to dismiss Count V, but to proceed with Count II. Count V is dismissed and the hearing will proceed as to Count II.

The Petitioner calls Brenda Cunningham, R.N., as the next witness. The witness is sworn. Petitioner inquires whether for convenience, this witness may testify as to Count II, as well as for purposes of disposition of the four counts admitted to by the Respondent. Petitioner states that if the testimony is limited only to Count II, this witness can be called later in the hearing for disposition. The Hearing Officer states that this witness may testify for Count II and for disposition of the counts already admitted by Respondent. The witness is examined by the Petitioner and Cross-examined by the Respondent. The witness is further examined by the Hearing Officer. Both parties were allowed to conduct cross-examination in light of the Hearing Officer's examination. The witness is released.

The Petitioner rests. The Respondent is allowed to put on his case. The Respondent requests a recess in order to attend to the parking meter and to collect his thoughts about his case. A recess was taken. The matter re-convened. Whereupon, the Respondent testified on his own behalf. The Petitioner cross-examined. The Hearing Officer examined the Respondent as well.

The matter proceeds to disposition. Whereupon, the Petitioner called Brenda Drenman, R.N., and Susan Roelfs, R.N., regarding the disposition of the Respondent.

The parties were allowed to make brief statements in a closing argument. Petitioner's position is that the Respondent's license should be revoked. Respondent's position is that some lesser action should be taken. Respondent adds that he is currently licensed in Colorado and will not be practicing as a nurse in Kansas. Further, the Respondent is concerned what action the Colorado Board of Nursing will take against his Colorado license if his Kansas license is revoked.

WHEREUPON, the Hearing Officer makes the following findings of fact, conclusions of law and issues the following order.

#### **FINDINGS OF FACT**

1. Respondent was issued license number 14-070018-061, which expires June 30, 1997.
2. The Notice of Hearing, Petition, Amended Petition and subsequent notices for hearing in this matter were sent to the Respondent at his last address known to the Board by first class mail as prescribed by the Board. Respondent acknowledged receiving those documents.
3. Respondent has been advised several times during the pendency of these proceedings that he is entitled to obtain an attorney. Respondent has waived that right each time.
4. Respondent, after hearing the explanation of his options, indicated he wanted to proceed to hearing.

5. Petitioner moved to clarify and amend Count I in the Amended Petition to reflect that it was an "I.V. site," not an "I.U. site." Respondent stated he had no objection to amending Count I.

6. Petitioner moved to amend Count II of the Amended Petition to delete the part of the first sentence of Count II which states: "... and signed the name of the certified registered nurse anesthetist (CRNA) to the orders." Count II is further amended to delete the part in the second sentence which states "... K.A.R. 60-3-110(d), inaccurately recording, falsifying or altering a record of a patient or agency: or ..." Respondent stated he had no objections to the amendments to Count II.

7. Respondent was the first witness called by the Petitioner. During his statement, which was his own cross-examination, Respondent admitted to Counts I, III, IV and VI. Respondent denied Counts II and V. Further, Respondent expressed a desire to make statements regarding disposition.

8. Respondent was informed that by admitting to those counts, disciplinary action would be taken against his license to practice as a nurse in Kansas, and that he would be giving up his right in this hearing to contest those counts. Respondent stated that he understood.

9. As to Count I, based upon the Respondent's admission and Petitioner's Exhibit No. 1, on or about July 28, 1995, Respondent, while practicing as an R.N. at Northwest Kansas Regional Medical Center, documented his assessment of an I.V. site in the Nurses Notes of a patient. Respondent further documented that the Advanced Registered Nurse Practitioner (ARNP) responsible for this patient had been notified. The

ARNP had not been notified. Respondent's conduct constitutes unprofessional conduct in violation of K.S.A. 65-1120(a)(6) as defined by K.A.R. 60-3-110(d) inaccurately recording, falsifying or altering a record of a patient or agency.

10. As to Count III, based upon the Respondent's admission and Petitioner's Exhibit No. 3, on or about November 20, 1995, while employed at the Cheyenne County Hospital, Respondent administered Procardia 10 mg SL to a patient in the emergency room, without a physician's order or other authorization. Respondent's conduct constitutes unprofessional conduct in violation of K.S.A. 65-1120(a)(6) as defined by K.A.R. 60-3-110(a) performing acts beyond the authorized scope of the level of nursing for which the individual is licensed.

11. As to Count IV, based upon the Respondent's admission and Petitioner's Exhibit No. 5, on or about December 31, 1995, Respondent, while employed at the Cheyenne County Hospital, administered a placebo of 2 cc NS to a patient complaining of external pain. Respondent had no physician's order or authorization to administer such a medication. Respondent's conduct constitutes unprofessional conduct in violation of K.S.A. 65-1120(a)(6) as defined by K.A.R. 60-3-110(a), performing acts beyond the authorized scope of the level of nursing for which he is licensed.

12. As to Count VI, based upon the Respondent's admission and Petitioner's Exhibit Nos. 6, 7, 8, and 9, Respondent's conduct in failing to disclose two criminal convictions, as asked for in his original endorsement application, constitutes fraud and deceit in procuring or attempting to procure a license to practice nursing, in violation of K.S.A. 65-1120(a)(1).



13. Petitioner moved to dismiss Count V, but wished to proceed to Count II.

14. Hearing was held as to Count II. Brenda Cunningham, R.N., testified regarding Count II and as to disposition.

15. As to Count II, the Hearing Officer finds, based upon the testimony and exhibits offered, the evidence indicates the Respondent did not violate the Kansas Nurse Practice Act as specified in Count II.

16. As to disposition, the Petitioner called Brenda Drennan, R.N., and Susan Roelfs, R.N.

17. The Hearing Officer specifically notes concerns about the Respondent's conduct, in that the Respondent's admitted violations regarding practicing beyond his scope of practice clearly can lead to direct and immediate patient harm. Further, the allegations regarding falsification, alteration or inaccurate documentation, especially false documentation is of great concern. It is obvious that documentation placed into various medical records is and must be relied upon by care givers who have access to the chart after the Respondent enters information into the records.

18. Another concern noted by the Hearing Officer relates to the Respondent's position regarding Count VI. The question in the application regarding conviction history is clear and unambiguous. Had Respondent answered the question truthfully, the issue of whether or not to license him would have been handled at that time.

#### **CONCLUSIONS OF LAW**

1. The Board and this Hearing Officer have jurisdiction to hear this matter pursuant to the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., and the Kansas

Administrative Procedures Act, K.S.A. 77- 501 et seq. Respondent stipulates to such jurisdiction.

2. The Board, and by designation the Hearing Officer, have the authority, after a finding of a violation of the Nurse Practice Act, to implement any of the disciplinary options identified in K.S.A. 65-1120 against the Respondent's license to practice nursing in the state of Kansas, pursuant to the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., and the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

3. K.S.A. 65-1120(b) requires these proceedings of the Board to be conducted pursuant to the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

4. Notice of Hearing and service of all documents were done in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq., and are therefore proper.

5. Respondent was advised of his right to obtain counsel, but knowingly and voluntarily waived that right.

6. Respondent was advised of his right to a full and fair hearing on each of the allegations in the Amended Petition. Respondent waived his right to hearing on Counts I, III, IV, and VI.

7. Based upon Respondent's admissions, the identified exhibits, and the Findings of Fact, Respondent is found to have violated the Kansas Nurse Practice Act as to each of Counts I, III, IV, and VI, as stated and amended in the Amended Petition.

8. Based upon the evidence presented, Respondent did not violate Count II.

9. Based upon the motion of the Petitioner, Count V is hereby dismissed.

10. Based upon the testimony, exhibits, and findings of fact, disciplinary action must be taken against the Respondent's license for the four violations of the Kansas Nurse Practice Act.

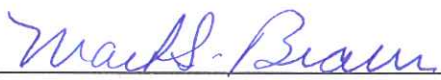
**ORDER**

Based on the testimony, exhibits and the above findings of fact and conclusions of law, **IT IS THEREFORE ORDERED**, pursuant to K.S.A. 65-1120(a), that the Respondent's license shall be **suspended** until June, 30, 1997, and he shall not practice nursing in the State of Kansas during the period of suspension. **IT IS FURTHER ORDERED**, pursuant to K.S.A. 65-1120(d), that Respondent shall be assessed costs in this matter in the amount of six hundred thirty eight dollars and forty seven cents (\$638.47). Said amount reflects the amount in costs of witness fee and mileage for the three witnesses subpoenaed by the Petitioner. Respondent shall have paid the costs on or before June 30, 1997, or before any renewal or reinstatement of his license to practice nursing in Kansas.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
Terry E. Beck  
Hearing Officer

Prepared and Submitted by:

  
\_\_\_\_\_  
Mark S. Braun  
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Disciplinary Counsel  
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**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.

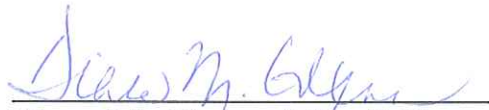
**CERTIFICATE OF SERVICE**

This is to certify that on the 8<sup>th</sup> day of January, 1997, I deposited a true and correct copy of the Initial Order in the United States Mail, first class mail, postage prepaid to:

Richard Chatterton  
P.O. Box 261, Lafayette  
Colorado, 80026

and by hand delivery to

Mark S. Braun  
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