

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

IN THE MATTER)
)
OF) Case No: 95-0169-0
)
DOMINIC JOSEPH ARBEITMAN)
LICENSE NO. 14-070670-062)

INITIAL ORDER

Now on this 26th day of June, 1996, the above-captioned matter comes on for Scheduling Docket before Terry E. Beck, the Board's designated Hearing Officer, on the Petition filed with the Board. The Petitioner appears by and through Assistant Attorney General Mark S. Braun, Disciplinary Counsel for the Board. The Respondent, Dominic Arbeitman, appears in person and without counsel.

The Hearing Officer inquires of the Respondent whether he received the Petition and whether he understands the nature of the allegations contained in the Petition. Respondent states that he received and understands the allegations. Respondent inquires of the Respondent whether he has any objection to the Board's jurisdiction in this matter. Respondent states he has no objection.

The Hearing Officer advises the Respondent that he has the

right to be represented by an attorney in these proceedings, if he chooses to obtain one. Respondent acknowledges this right, but wishes to proceed without counsel.

The Petitioner informs the Hearing Officer that the parties have discussed this matter prior to this scheduled hearing and have an agreed upon resolution to present to the Hearing Officer.

Petitioner further informs the Hearing Officer that the Respondent submitted an endorsement application for licensure to practice nursing in the State of Kansas.

The Hearing Officer advises the Respondent he may either admit or deny the allegations in the Petition. If Respondent denies the allegations, the matter will proceed to hearing in which the Petitioner will have to prove, through witnesses and evidence, that the Respondent committed the act(s). The Respondent will have the opportunity to cross-examine the Petitioner's witnesses, as well as the opportunity to present witnesses and evidence on his own behalf. If Respondent admits the allegations, there will be no hearing. Based on the admission(s), the Hearing Officer will make a finding that the Respondent committed the act(s) complained of and that Respondent has violated the Kansas Nurse Practice Act as specified by the Petitioner. The matter will then proceed to disposition to determine and impose the appropriate discipline for the violation.

The Hearing Officer inquires of the Respondent if he understands his options regarding the allegations. Respondent states that he understands his options. The Hearing Officer inquires of the Respondent whether he admits or denies the

violation alleged in the Petition. Respondent admits to the violation, that disciplinary action was taken against his license to practice nursing in the State of Missouri.

The Hearing Officer accepts the admission and finds that the Respondent has violated the Kansas Nurse Practice Act as stated in the Petition. Based upon the Respondent's admissions to the violations, the Hearing Officer makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Respondent was issued a license to practice nursing in the State of Kansas as a registered professional nurse (R.N.), license number 14-070670-062. Respondent had previously submitted an endorsement application, but never received, nor was he aware that he had been issued, the license.

2. Respondent submitted another endorsement application for a license to practice as an R.N..

3. The Notice of Proceedings in this matter were sent to the Respondent at his last address known to the Board by first class mail on June 13, 1996.

4. Respondent has been advised of his right to counsel and voluntarily waived that right.

5. Respondent, after explanation of his options, admitted to having had disciplinary action taken against his license by the Missouri Board of Nursing, in violation of K.S.A. 65-1120(a)(8), as stated in the Petition.

6. Respondent has violated the Kansas Nurse Practice Act, for

which disciplinary action may be taken by the Board, or its designated hearing officer against the license or licensee.

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 Respondent has been advised of his right to counsel and has knowingly and voluntarily waived that right.

3. The Respondent has been properly served with the Petition and Notice of Proceedings in this matter pursuant to the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

4. The Board, and by designation the Hearing Officer, have the authority, after a finding of a violation of the Nurse Practice Act, to impose any of the disciplinary sanctions identified in K.S.A. 65-1120 and K.S.A. 74-1110 against the Respondent or the Respondent's license to practice nursing in the State of Kansas.

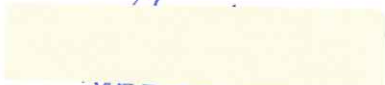
5. K.S.A. 65-1120(b) requires these proceedings of the Board to be conducted pursuant to the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

6. Based on Respondent's admission, Respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., as stated in the Petition, specifically K.S.A. 65-1120(a)(8), having had disciplinary action taken against his license to practice nursing in the State of Missouri by the Missouri State Board of Nursing.


ORDER

Based on the above findings of fact and conclusions of law, IT IS THEREFORE ORDERED pursuant to the disciplinary remedies available under K.S.A. 65-1120(a) that the Respondent's endorsement application for a license to practice as a registered professional nurse, (R.N.), is hereby granted. Respondent shall be publicly censured. Further, the Respondent shall be assessed the costs of these proceedings in the amount of thirty-five (\$35.00) dollars. Said costs are to be paid by money order or cashier's check made payable to the Board of Nursing, and delivered to the Board office no later than thirty (30) days after service of the Initial Order.

IT IS SO ORDERED.


Terry E. Beck
Hearing Officer

Prepared and Submitted by:


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

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.

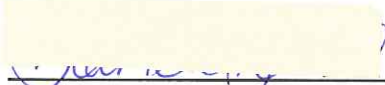
CERTIFICATE OF SERVICE

This is to certify that on the 2nd day of July, 1996, I deposited a true and correct copy of the Initial Order in the United States Mail, first class mail, postage prepaid to the following:

Dominic Arbeitman
4420 NW 78th Terrace, apt 131
Kansas City, Mo. 64151

and by hand delivery to:

Mark S. Braun
Assistant Attorney General
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