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BEFORE THE KANSAS STATE BOARD OF NURSING

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

IN THE MATTER OF
MICHELE A. MOORE
License No. 14-071606-122

Case No. 10-1008-7, 08-1083-7

CONSENT AGREEMENT AND FINAL ORDER

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NOW ON THIS 13th day of January, 2011, the Kansas State Board of Nursing, represented by Assistant Attorney General, Danielle R. Sanger, and the Respondent, Michele A. Moore, 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. Respondent's license to practice nursing in Kansas lapsed. Respondent submitted a reinstatement application on 8/9/2010. The Board has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent's address of record is 4505 W 77th St., Prairie Village KS 66208.
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. 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.
5. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 *et seq.* to examine, license and renew licenses 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 entered into a Consent Agreement and Final Order on 3/14/2007 in order to resolve a discipline case, #06-057-7.

7. As set out in the Consent Agreement dated 3/14/2007, Respondent agreed to complete the following conditions and requirements:

- a. Respondent shall return his or her current license card to the Board with this Consent Agreement. Respondent 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. Respondent 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 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. Noncompliance with KNAP is a violation of this agreement.
- c. Respondent 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 Respondent. Respondent agrees that a Positive Drug Screen is a violation of this agreement.
- d. Respondent shall not seek or accept employment with a nursing registry, a temporary nursing service or agency, a home health care service or agency, or as a private duty nurse during the term of this agreement.
- e. Respondent shall not practice without direct supervision during the term of this agreement.
- f. Respondent 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.

- g. The Respondent shall immediately inform all employers and prospective employers of this Consent Agreement and the Final Order.
 - h. Respondent shall send a money order for \$70 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 pay a fine of \$100.00 representing work during two (2) calendar months of unlicensed practice. The unlicensed practice fine of \$100.00, will be paid to the Board by money order, upon entering into this agreement. Failure to pay the unlicensed practice fine as outlined in this paragraph is a violation of this Consent Agreement and Final Order.
 - l. 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.
8. On or about 11/25/2008, the Board received information regarding Respondent, alleging that on or about 11/17/2008, Respondent refused a urine drug screen while employed at KVC Behavior Healthcare, Kansas City Kansas through the staffing agency, Metropolitan Nursing, Overland Park Kansas.
9. Metropolitan Nursing, Overland Park Kansas, is a staffing agency which provides health care professionals for short and long-term staffing needs.
10. On or about 12/08/2008, a new case, #08-1083-7, was opened on Respondent to investigate the above-referenced information.

11. On or about 1/1/2009, Respondent's RN license lapsed; therefore, case #08-1083-7 was closed.
12. On or about 7/6/2009, Respondent contacted the Board and stated that she had 3.5 fingers amputated and was scheduled to have ½ finger amputated on 7/17/2009. Respondent also stated that the amputations were due to being restrained while she was in the hospital for pneumonia. Respondent stated she was unsure whether she was going to try to reinstate her license because of the amputations.
13. On or about 8/9/2010, Respondent submitted a reinstatement application to the Board.
14. In a letter dated 8/27/2010, Respondent was informed that her reinstatement application, including the physical injury to her left hand, was reviewed by the Investigative Committee chairperson on 8/18/2010, and the decision of the chairperson was for Respondent to be evaluated by a physician to determine her ability to practice nursing safely.
15. On or about 9/3/2010, Respondent had an independent medical evaluation completed by Lynn A. Curtis, MD, Topeka Kansas.
16. On or about 9/16/2010, the Board received a report from Lynn A. Curtis, MD, regarding Respondent, which stated Respondent cannot write with clarity (unless through the use of amanuensis), cannot draw a syringe, cannot start an IV, cannot use sterile gloves, cannot set up sterile fluids, and cannot participate in a code.
17. The independent medical evaluation report also stated that it appeared that:
 - a. Respondent had all of the functional credentials with a restriction of 0-25 pounds for lifting, pushing, pulling, and carrying to perform as a Nurse Educator; Respondent would have difficulty with emergencies and direct patient care, and would not be able to perform these tasks as a Resource Person; Respondent would be qualified as a Surgical Services Educator with a restriction of 0-25

pounds for lifting, pushing, pulling, and carrying; Respondent would not be qualified as a Staff RN due to the requirement of direct patient care.

18. The above incidents are violations of the nurse practice act. The Respondent agrees that the Board is prepared to prove that Respondent has violated: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(r), failing to comply with any disciplinary order of the board; and K.S.A. 65-1120(a)(3), professional incompetency by K.S.A. 65-1120(e)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing, and K.S.A. 65-4924, reports relating to impaired providers; procedures.
19. 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.

CONCLUSIONS OF LAW

20. 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.
21. Respondent has violated the Kansas Nurse Practice Act as follows:
- a. Count 1: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(r), failing to comply with any disciplinary order of the board;
 - b. Count 2: K.S.A. 65-1120(a)(3), professional incompetency by K.S.A. 65-1120(e)(3), a pattern of practice or other behavior which demonstrates a manifest

incapacity or incompetence to practice nursing and K.S.A. 65-4924, reports relating to impaired providers; procedures.

POLICY STATEMENT

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

DISPOSITION

23. 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.

24. Upon the parties entering into this Consent Agreement and with the Respondent having met all statutory requirements for reinstatement of Respondent's Kansas Nursing license, the Respondent's application for reinstatement of Respondent's Kansas Nursing license will be granted.

25. 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 Respondent's 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, reinstatement of Respondent's nursing license shall be contingent upon this Consent Agreement and Final Order remaining in effect until Respondent completes each of the conditions and requirements of this agreement.

26. 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. The suspension will be stayed as long as the requirements and conditions of this agreement are met.

27. 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 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.

28. The Kansas State Board of Nursing will not take additional disciplinary action against Respondent's nursing license for the violations stated above and will approve Respondent's reinstatement application received on 8/9/2010 as long as Respondent completes each of the following conditions and requirements:

- a. **Once reinstated, Respondent's license is suspended with a Stay. Once reinstated, Respondent's license is limited.**
- b. **Respondent shall not seek or accept employment where she is responsible for direct patient care. Respondent shall have no contact with patients, including clinical supervision of students.**
- c. **Respondent shall not seek or accept employment with a nursing registry, a temporary nursing service or agency, a home health care service or agency, or as a private duty nurse during the term of this agreement.**
- d. **Respondent shall not practice nursing without direct supervision during the term of this agreement.**
- e. **Respondent shall immediately inform all employers and prospective employers of this Consent Agreement and the Final Order if the position acquired/sought requires the use of the Respondent's nursing license.**
- f. **Respondent shall send a money order for \$70 to the Board upon entering into this agreement to pay the cost of this action.**
- g. **Respondent shall not violate the Kansas Nurse Practice Act during the duration of this agreement.**

- h. Respondent shall not violate the laws of the United States, of any 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. 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.**
- j. Respondent will submit personal statements or 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:**

 - i. 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 every third month beginning the next month after signing this Final Order and Consent Agreement until Respondent has caused the submission of eight (8) separate statements.
 - ii. 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 every third Month beginning the next month after signing this Final Order and Consent Agreement until Respondent has caused the submission of eight (8) separate nursing performance reports.

iii. 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. 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. Respondent's name, address, telephone number, license number.
5. A statement by the evaluator that Respondent is not employed with a nursing registry, a temporary nursing service or agency, a home health care service or agency, or as a private duty nurse.
6. A statement by the evaluator that Responent has on-site supervision at all times.
7. 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.

k. Respondent shall provide the Board with a written statement with any future renewal or reinstatement applications which accurately describes her physical disability, including a reference to any new medical evidence which provides proof of an increase or decrease in her disability.

29. Respondent acknowledges and agrees that Respondent is responsible for the costs related to satisfying the conditions and requirements of this Consent Agreement. Respondent 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.
30. 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 Consent Agreement, but Respondent could not contest the violations listed in this agreement.
31. 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 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.
32. Respondent acknowledges and agrees that upon a first finding of Respondent not complying with the conditions or requirements of this Consent Agreement, the Stay of Suspension of Respondent'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. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension.
33. Respondent acknowledges and agrees that upon a second or subsequent finding of Respondent not complying with the conditions or requirements of this Consent Agreement, the Stay of Suspension of Respondent'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.


Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension.

34. Respondent 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 Respondent has, following the prescribed time period of suspension, provided written verification to the Board that Respondent is in compliance with all conditions and requirements of this Consent Agreement. Upon the Respondent providing said written verification, the suspension will again be stayed.
35. 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.
36. 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.
37. After successful completion of all of the conditions and requirements of this Consent Agreement by the Respondent, the Consent Agreement will be satisfied and the case will be inactivated.
38. By signing this Consent Agreement and Final Order, Respondent acknowledges that Respondent 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.
39. 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.


Michele A. Moore
Respondent
4505 W 77th St.
Prairie Village KS 66208


Michele A. Moore must sign before a notary public.

State of Kansas
County of Johnson

The Foregoing instrument was acknowledged
before me on this 10th day of Jan., 2010
by 


Danielle R. Sanger, #24587
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612-1230

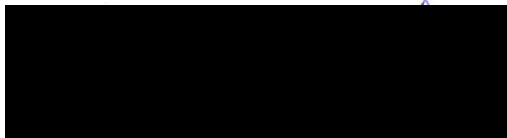



Hearing Officer

CERTIFICATE OF SERVICE

On the 14th day of January, 2011, I mailed a true and correct copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Michele A. Moore
4505 W 77th St.
Prairie Village KS 66208



Danielle R. Sanger, #24587
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612-1230