

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED
JUL 27 2010
KSBN

IN THE MATTER OF
REBECCA J. CUSTEAD
License No. 14-075049-112

Case No. 01-092-7, 02-668-7, 03-049-7,
03-442-7, 04-694-7

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 27th day of July, 2010, the Kansas State Board of Nursing, represented by Assistant Attorney General, Alma A. Heckler, and the Respondent, Rebecca J. Custead hereby enter into this agreement and proffer evidence and the Administrative Hearing Officer adopts those recommendations and makes the following findings of fact and orders:

AGREED FINDINGS OF FACT

1. Respondent is currently not licensed to practice nursing in Kansas and has filed a reinstatement application. 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 7714 Alden St, Lenexa, KS 66216.
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 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. (a) Ms. Custead filed a reinstatement application in November 2007. Her license had previously lapsed on or about 11/30/2004. The Board reviewed her application and recommended her license could be reinstated but only under conditions as set out in this agreement.

(b) In 2004, the Kansas Board of Nursing (KBON) opened an investigative case, Case No. 04-694-7, after the Board received notice Ms. Custead had been convicted in Johnson County, Kansas of two (2) separate counts of a Class "A" Misdemeanor Prescription Fraud in Case Nos. 04 CR 1122 and 04 CR 1697. Ms. Custead admitted to forging prescriptions for Hydrocodone on 4/26/2004, 5/12/2004, 5/24/2004 and 6/18/2004.

(c) In KBON Case No. 03-442-7, Ms. Custead was referred by the Board back to the [REDACTED]. In 2003, Ms. Custead's [REDACTED] case was closed due to her failure to submit to UDS, [REDACTED], non-payment of [REDACTED] fees [REDACTED].

(d) In KBON Case No. 03-049-7 Ms. Custead was employed at the Overland Park Regional Medical Center and was terminated on 12/13/2002 for non-compliance with [REDACTED]. Ms. Custead administered narcotics in violation of her [REDACTED] contract and did complete appropriate documentation of the narcotics. The applicant had agreed with her employer, the applicant would follow all of the [REDACTED] requirements and any deviation from the program would be grounds for her termination of employment. She was terminated. The Kansas State Board of Nursing directed the applicant to stay in [REDACTED] and remain compliant.

(e) In KBON Case No. 01-092-7 Ms. Custead had previously self referred to [REDACTED] on 12/21/2000. She violated the Key restrictions when she was caught taking prescription drugs, Lortab, out of the Pyxis system and was suspended from work. The applicant failed to report a misdemeanor DUI conviction in Wyandotte County, Kansas, Criminal Case No. 2000 CR 0138, to the Board as required by the Kansas Nurse Practice Act

7. Count 1: 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 2: 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 applicant or licensee establishes sufficient rehabilitation to warrant the public trust..."

Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(s), failing to complete the requirements of the impaired provider program of the board.

8. 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

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 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.

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

Count 1: 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 2: 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 applicant or licensee establishes sufficient rehabilitation to warrant the public trust..."

Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(s), failing to complete the requirements of the impaired provider program of the board.

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. 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 and after completing twelve (12) months successfully in the Kansas Nurse Assistance Program (KNAP), the Respondent's application for reinstatement of Respondent's Kansas Nursing license will be granted.

14. 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.

15. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the Respondent shall remain in the Kansas Nurse Assistance Program (KNAP) and must remain compliant with all terms and conditions of KNAP for twelve (12) months before the Respondent will be issued a license to practice nursing. When the Kansas Board of Nursing issues a license to practice nursing, 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 continue to be met.

16. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that when the Respondent's license to practice nursing is issued in Kansas, such license is immediately limited. The limitations placed on the license 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.

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

(a) Respondent shall receive a license, after she successfully completes the initial twelve (12) months participation in KNAP, which shall be issued with an "S" to indicate that the license is suspended with a Stay. The license 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 have a narcotic key restriction on respondent's license for the first twelve (12) months after Respondent secures employment that requires a nursing license. The narcotic key restriction prohibits the respondent from passing of narcotics, wasting of narcotics or having access to narcotics. The narcotic key restriction also prohibits the

Respondent from supervising nurses or others that have access to narcotics. After Respondent completes twelve (12) months of employment that requires a nursing license, without violating any terms of this agreement, Respondent may request that the narcotic key restriction be removed from Respondent's license. Respondent's request shall include written verification from Respondent's employer, to the Kansas State Board of Nursing, as to whether the Respondent has been employed in a position that requires a nursing license; as to whether the Respondent has held that position for at least twelve (12) months; as to whether the Respondent has passed, wasted, had access to, or supervised others that had access to narcotics. With a showing that the narcotic key restriction term of this agreement has been met by the Respondent, and the Respondent is compliant with all other terms of this agreement, the narcotic key restriction will be removed from Respondent's license and Respondent will be issued a license card with no limitations on the practice.

(e) 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.

(f) The Respondent shall immediately inform all employers and prospective employers of this Consent Agreement and the Final Order.

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

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

(i) 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.

(j) Once employed as a nurse, respondent shall 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: Prior to respondent securing employment that utilizes his or 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 consent agreement. 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 until respondent has caused the submission of four (4) separate nursing performance reports. 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) 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) Respondent shall work only in nursing positions with on site and personal supervision by an R.N. The respondent will not work in any positions in home health or nursing home positions.

(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.

18. 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.

19. 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.

20. 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. 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.

21. Respondent acknowledges and agrees that upon a finding of Respondent not complying with the conditions or requirements of this Consent Agreement during the year of participation in KNAP prior to receiving Respondent's license, shall cause an extension of the twelve month period of unlicensed participation in KNAP.

21. Once the Respondent is issued a license to practice nursing by the State of Kansas, 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.

22. 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.

23. 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.

24. The Board will inactivate these case files 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.

25. 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 investigative cases. The original of this agreement shall be placed in the Agency Record and is a public record.

26. 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 cases will be inactivated.

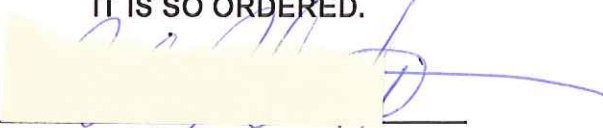
27. By signing this Consent Agreement and Final Order, Respondent acknowledges that Respondent has read and understands the entire document, and agrees to be bound by its terms. This Consent Agreement and Final Order constitute the entire agreement of the parties and may not be modified except in writing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

28. 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.



Rebecca J. Custead
Respondent
7714 Alden St
Lenexa, KS 66216

Rebecca J. Custead must sign before a Notary Public.

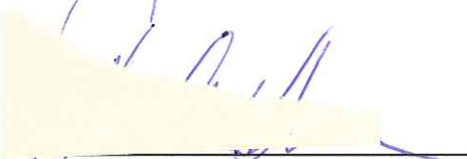
State of Kansas, County of Shawnee ss.
SUBSCRIBED AND SWORN TO before, me by Rebecca J. Custead

on this 27th day of July, 2010

Patricia A. Byers
Signature of Notary Public

My Commission Expires 7-31-2010





Alma A. Heckler, #11555
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 29th day of July, 2008, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to: *hand-delivered*

Rebecca J. Custead
7714 Alden St
Lenexa, KS 66216



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