

**BEFORE THE KANSAS STATE BOARD OF NURSING
Landon State Office Building
900 S.W. JACKSON, ROOM 551-S
TOPEKA, KANSAS 66612-1230**

IN THE MATTER OF:)
)
) **CASE NO. 95-0257-0**
KAREN BROWN)
RN APPLICANT)

INITIAL ORDER

Now on this 12th Day of December, 1995, the above-captioned matter comes on the 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, Karen Brown, does not appear. The matter is set over for the February 23, 1996 hearing docket as stated in the Notice of Hearing.

Now on this 23rd day of February, 1996, the above-captioned matter comes on for hearing 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, Karen Brown, does not appear. Petitioner's counsel informs the Hearing Officer the parties have discussed the matter several times by telephone and by letter and have possibly reached an agreement in

this matter. Therefore, Petitioner requests that this matter be continued until the next docket. The Hearing Officer orders that this matter be continued to the March 12, 1996 hearing docket.

Now on this 12th day of March, 1996, the above-captioned matter comes on for hearing 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, Karen Brown, does not appear. Petitioner's counsel informs the Hearing Officer that prior to appearing at the hearing, he received a telephone call from a woman identifying herself as a neighbor and friend of the Respondent. The caller informed Petitioner's counsel that the Respondent's mother died, and the Respondent would not be able to appear. Petitioner's counsel further informs the Hearing Officer that the parties have discussed the matter several times by telephone and by letter and have possibly reached an agreement in this matter. Therefore, Petitioner requests that this matter be continued until the next docket. The Hearing Officer orders that this matter be continued to the April 9, 1996 hearing docket.

Now on this 9th day of April, 1996, the above-captioned matter comes on for hearing 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, Karen Brown, appears in person without counsel.

The Hearing Officer advises the Respondent that she has the right to be represented by an attorney in these proceedings, if she chooses to obtain one. Respondent states she is aware of this right, but she is waiving that right and wishes to proceed without counsel.

The Hearing Officer notes for the record that the Petition and Notice of Hearing were served on the Respondent December 1, 1995, by placing same in the United States Mail to her at 16517 E. 42nd Street, Independence, Mo., 64005. Upon inquiry, Respondent states she received the Petition and Notice of Hearing. The Hearing Officer notes for the record that this matter has been continued several times, with appropriate orders in the file.

The Hearing Officer states that this matter comes on for hearing on the Respondent's application for licensure, and the allegation in the Petition that disciplinary action had been taken against the Respondent's license to practice as a nurse in Missouri.

The Hearing Officer inquires of the Petitioner's position regarding this application.

Petitioner states that pursuant to a July, 1990 order of the Missouri Board of Nursing, disciplinary action was taken against the Respondent's license to practice as a registered nurse in that state. The discipline was initially a revocation. The order imposing revocation was stayed, and she was placed on a three-year probation, allowing her to practice in Missouri under certain conditions. A February, 1992 order modified the previous order, amending the probation period to be July, 1990 - January, 1992.

Petitioner's counsel offers Exhibit No. 1, a Certification from the State of Missouri, State Board of Nursing, that five documents were being certified by the Missouri Board. Exhibit No. 1 includes the Certification and only two of the five documents listed in the

Certification; the "Findings of Fact, Conclusions of Law and Order," and a (modification) "Order." Exhibit No. 1 is admitted without objection.

Petitioner's counsel points out that the Kansas Nurse Practice Act allows the Board to deny a license, or to take other action against a license, if they are found to have violated the act. Discipline of a nursing license or a nursing licensee by another state licensing agency is ground to deny a license or to take other such action, pursuant to K.S.A. 65-1120(a)(8). Based upon the Missouri Board of Nursing's modification of its order, and the fact that the Respondent has been practicing in Missouri since that date with no further action, the Petitioner requests that the Hearing Officer find that the Respondent has violated the Kansas act, by virtue of the Missouri discipline. Petitioner further requests that the Respondent's license be granted, but that she be privately censured.

The Hearing Officer inquires of the Respondent whether she is in agreement with the Petitioner's position. Respondent states she is against the discipline. She points out that she was under a probation for a period of 18 months and was released from that probation. The Hearing Officer inquires of the Respondent's current licensure status. Respondent states she is not under any discipline, nor is she subject to any current investigation. Respondent informs the Hearing Officer of the nature of her problems in Missouri; that there were no problems prior to this Missouri case, nor have there been any since.

The Hearing Officer takes a few minutes to review Petitioner's Exhibit No. 1. The Hearing Officer inquires whether either party has anything further to add. Petitioner

declines. Respondent states that she has been working for the same employer in the home health area, Independence (Mo.) Regional Health Center, and there have been no problems.

FINDINGS OF FACT

1. Respondent submitted a Registered Nurse Endorsement Application seeking license to practice as a registered professional nurse in the State of Kansas.

2. The Notice of Hearing and Petition in this matter were sent to the Respondent at her last address known to the Board by first class mail on December 1, 1995.

3. Respondent was informed of her rights to an attorney and a hearing in this matter, and knowingly waived that right and chose to appear on her own behalf.

4. Respondent stipulated or admitted that disciplinary action had been taken against her license to practice as a RN by the Missouri Board of Nursing. That discipline was a revocation, which was stayed, allowing the Respondent to practice under a three-year probation.

5. Respondent met the terms of her Missouri Board probation. A subsequent order modified that probation to be an 18-month probation, which terminated nearly four years ago. Respondent has practiced nursing in the State of Missouri without any further disciplinary action.

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 impose any of the disciplinary sanctions 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 these proceedings and service of the notices in these proceedings were done in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq., and are therefore proper.

5. Based on Petitioner's Exhibit No. 1 and the Respondent's statements, Respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., specifically that the Missouri Board of Nursing took disciplinary action her license to practice nursing in the State of Missouri. Such action constitutes a violation of the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., specifically K.S.A. 65-1120(a)(8).

6. Respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., as alleged in the Petition.

7. The Respondent knowingly and understandingly waived her rights to an attorney and a hearing in this matter.

ORDER

Based on the above findings of fact and conclusions of law, the Hearing Officer determines that he must take some action, regardless of how long ago the Missouri action

was taken. **IT IS THEREFORE ORDERED** pursuant to the disciplinary remedies available under K.S.A. 65-1120(a), Respondent's application to practice as registered professional nurse (R.N.) in the State of Kansas is hereby granted. Respondent is privately censured.

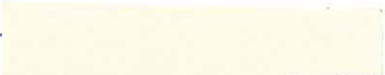
Further, Respondent is assessed costs of this matter in the amount of thirty-five dollars (\$35.00). Said costs shall be paid by cashier's check or money order made payable to the Board of Nursing. Said costs shall be paid within thirty (30) days of service of this order.

IT IS SO ORDERED.



Terry E. Beck
Hearing Officer

Prepared and Submitted by:



Mark S. Braun
Disciplinary Counsel
Assistant Attorney General
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson Rm 551-S
Topeka, Kansas 66612-1230
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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 29th day of May, 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:

Karen Brown
16517 E. 42nd Street
Independence, Mo. 64005

and by hand delivery to:

Mark S. Braun
900 S.W. Jackson Rm 551-S
Topeka, Kansas 66612-1230




Diane M. Glynn, J.D., R.N.
Practice Specialist