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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
AUDRIE GUDENKAUF
License No. Initial Application

Case No. 14-723-7

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INITIAL AGREED ORDER

NOW ON THIS 16th day of March, 2015, the Kansas State Board of Nursing, represented by Assistant Attorney General Michael Fitzgibbons, and Respondent Audrie Gudenkauf, represented by Carol Ruth Bonebrake and Megan L. Lewis of Simpson, Logback, Lynch, Norris, P.A., 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/Applicant Audrie Gudenkauf filed an initial application for licensure as a registered nurse (RN) on April 18, 2014. 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 16350 Ella Road #531, Houston, Texas 77090.
3. 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. Respondent acknowledges that this agreement is an open record pursuant to the Kansas Open Records Act, K.S.A. 45-215 *et seq.*, and may be published or disseminated notwithstanding any state or federal law otherwise restricting public access to, or dissemination of, any personal or health care information, or any information or records of substance abuse evaluation and/or treatment contained herein.
5. 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.

6. 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 may levy administrative fines consistent with K.S.A. 74-1110, if a violation of K.S.A. 65-1120 is established.

7. A Petition was filed on August 14, 2014 to take disciplinary action against the Respondent's license. After negotiations and the settlement agreement between the Respondent and the Kansas Department of Aging and Disability Services (KDADS) dated 10/24/2014, the facts admitted to by the Respondent are as follows:

"Applicant has resolved a pending appeal of a *Notice of Finding of Abuse and Neglect* issued on January 7, 2014 by the Kansas Department of Aging and Disability Services (KDADS) by Settlement Agreement dated 10/24/2014. The Applicant agreed to a finding of neglect against her CNA license under K.S.A. 39-1401(g) in KDADS Case No. 13-67038B. Applicant, as part of the settlement agreement with KDADS, has agreed to complete at least one training session covering abuse and neglect of residents in adult care homes. Applicant has agreed not to seek or be employed in adult care homes, as provided by K.S.A. 39-936(c), until (and if) a Petition for Expungement is granted. A Petition for Expungement, if filed by the Applicant, will not be automatically granted by KDADS unless all of the requirements for expungement pursuant to 42 USC § 1395i-3(g)(1)(D) and 43 USC § 1396r(g)(1)(D) and amendments thereto, are met together with any other applicable federal or state laws and regulations in effect at the time of filing the KDADS Agreement."

VIOLATIONS

8. The incidents alleged in the *Petition*, if proven by evidence of sufficient quality, would constitute violations of the Kansas Nurse Practice Act. The Respondent agrees that the Board is prepared to offer evidence that Respondent has violated the Act as alleged below.

Respondent disputes that she intentionally or willfully violated the Act; and for the purpose of resolving this matter, consents to this *Initial Agreed Order*.

Count 1: K.S.A. 65-1120(a)(8), to have a disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country.

9. 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

10. 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 may levy administrative fines consistent with K.S.A. 74-1110, if a violation of K.S.A. 65-1120 is established.

11. Respondent agrees that the Board is prepared to offer evidence that respondent has violated the Act as follows:

Count 1: K.S.A. 65-1120(a)(8), to have a disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country.

POLICY STATEMENT

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

DISPOSITION

13. By entering into this Initial Agreed Order (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.

14. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that this Initial Agreed Order 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 Initial Agreed 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's license to practice nursing in Kansas can now be approved because she has submitted proof of completion of the training session she agreed to complete in item 4(a) of the *KDADS Settlement Agreement and Amended Final Order Approving the Same*. The KDADS Agreement required the Respondent to complete at least one training session covering abuse and neglect of residents in adult care homes.

16. 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.

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

(a) Respondent shall receive a nursing license that when verified by the public will show Public Censure so long as she continues to meet the requirements of this Initial Agreed Order. The license will have limitations on practice as stated below:

(b) The Respondent will complete two (2) hours of Continuing Nurses Education (CNE) on the topic of the Kansas Nurse Practice Act through Via Christi educational department. She may access it at www.via-christi.org/cne. Respondent is to submit the original certificates for proof of completion of the hours within 30 calendar days of this agreement being mailed to her. Respondent may not use these hours to meet the CNE requirements of any renewal period.

(c) The Respondent will complete three (3) to six (6) hours of Continuing Nurses Education (CNE) on each of the following topics: (1) following doctors orders; and (2) meeting the requirements of a plan of care. Respondent is to submit the original certificates for proof of the completion of the hours to the Legal Division of the Board within 90 calendar days of the date the agreement is mailed to her. Respondent may not use these hours to meet the CNE requirements of any renewal period.

(d) The Respondent shall immediately inform all employers and prospective employers of this Initial Agreed Order.

(e) The Respondent shall only work in nursing positions where she is supervised by an RN at all times.

(f) Respondent shall not seek or accept employment with a nursing registry, a temporary nursing service or agency, a nursing home, a home health care service or agency, or as a private duty nurse without prior written consent of the Board for the term of this Agreement and until she has received an expungement of the findings of abuse and neglect by KDADS.

(g) Respondent will 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:

If the Respondent is unemployed, 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 each month beginning the next month after signing this Initial Agreed Order. (A statement from the respondent that she has not yet secured employment in nursing, is not a nursing performance report).

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 each of the following months; April 2015, July 2015, October 2015, and January 2016 or 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) The evaluation should be submitted by respondent's supervisor on respondent's employer's facility letterhead stationary.

(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 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 (or other similar act if Respondent is not practicing nursing within the State of Kansas).

(c) Supervisor evaluations.

(d) Overall appropriateness.

(e) Interactions with patients.

(f) Interactions with staff and administration.

(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 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) calendar 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 Initial Agreed Order. Respondent further acknowledges and agrees that to provide the Board with false information regarding compliance with this Initial Agreed Order is a violation of this Initial Agreed Order.

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 Initial Agreed Order, 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 Initial Agreed Order 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.

21. Respondent acknowledges and agrees that if any action based on failure to meet the conditions and requirements of this Initial Agreed Order is filed during the term of this Initial

Agreed Order, or within 30 days after the expiration date, the conditions of this Initial Agreed Order shall continue in effect until the Board, or a hearing/presiding officer designated pursuant to K.S.A. 77-514 and K.S.A. 77-526, rules on the action.

22. 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.

23. 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. This Agreement is a public record and will be reported to national disciplinary data banks.

24. After successful completion of all of the conditions and requirements of this Initial Agreed Order by the respondent, the Initial Agreed Order will be satisfied and the case will be inactivated.

25. By signing this Initial Agreed Order, Respondent acknowledges that Respondent has read and understands the entire document, and agrees to be bound by its terms. This Initial Agreed Order constitutes the entire agreement of the parties and may not be modified except in writing and approved by all parties. The effective date of this Initial Agreed Order is the date shown on the certificate of service.

26. 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, 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 INITIAL AGREED ORDER.

IT IS SO ORDERED.

Audne Gudenkauf

Audie Gudenkauf
Respondent
16350 Ella Road #531
Houston, TX 77090

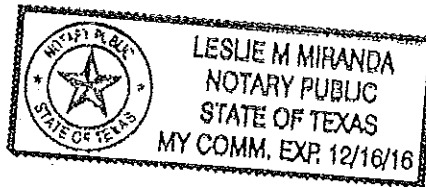
must sign before a Notary Public.

SUBSCRIBED AND SWORN to me this 2^{AG} day of AG March, 2015.

Leslie M. Miranda
Notary Public

My Appointment Expires:

12-16-16



Megan J. Lewis

Carol Ruth Bonebrake, #12672
Megan Lewis, #23719
Counsel for Respondent
Simpson, Logback, Lynch, Norris, P.A.
7400 W. 110th Street, Suite 600
Overland Park, Kansas 66210

Michael Fitzgibbons

Michael Fitzgibbons, # 12287
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

Michele Tunnell
Michele Tunnell, Presiding Officer

ED

Pursuant to K.S.A. 77-529, either party may request a review of this initial order by filing a petition for reconsideration with the Kansas State Board of Nursing. A petition for reconsideration must be filed with 15 days from the date this initial order was served. Failure to timely request a reconsideration by the Kansas State Board of Nursing may preclude further judicial review. The petition for reconsideration shall be mailed or personally delivered to: Mary Blubaugh, Executive Director, Board of Nursing, Landon State Office Building, Suite 1051, 900 SW Jackson, Topeka, KS 66612-1230.

Pursuant to K.S.A. 77-531, if the initial order is served by mail, three days are added to the time limits set out above.

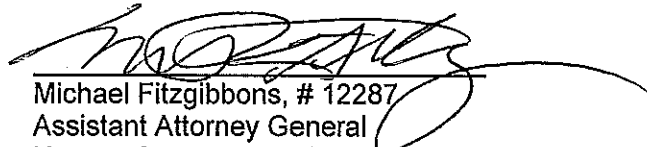
Pursuant to K.S.A. 77-530, if a request for reconsideration is not requested in the time and manner stated above, this initial order shall become effective as a final order 30 days after service.

CERTIFICATE OF SERVICE

On the 18th day of March, 2015, I mailed a copy of the file-stamped INITIAL AGREED ORDER to:

Audrie Gudenkauf
16350 Ella Road #531
Houston, TX 77090

Carol Ruth Bonebrake and Megan Lewis
Simpson, Logback, Lynch, Norris, P.A.
107 SW 6th Avenue, Suite 210
Topeka, Kansas 66603



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