

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

MAY 31 2006

KSBN

**IN THE MATTER OF
JESSE L. DELGADO
License No. 23-025798-122**

Case No. 04-868-4

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 26th day of May, 2006, the Kansas State Board of Nursing, represented by Assistant Attorney General, Mark A. Knight, and the Respondent, Jesse L. Delgado, represented by Michael E. Francis, 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 is licensed to practice nursing in Kansas as a licensed practical nurse through 12/31/2006. The Kansas State Board of Nursing (Board) has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent's address of record is 501 S. Poplar, South Hutchinson, KS 67505.
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(a) is established.

6. (a) On or about October 16, 1990, Respondent was convicted of Shoplifting, a misdemeanor. The conviction occurred in the Municipal Court of Hutchinson, Kansas.
- (b) On or about November 29, 1995, Respondent applied for a license to practice nursing in the State of Kansas. On the application submitted by the respondent he stated that he had been convicted of a misdemeanor or felony. Respondent provided information showing his May 6, 1993, conviction of Battery, a misdemeanor, in the Municipal Court of Emporia, Kansas. Respondent did not provide information regarding his October 16, 1990 Shoplifting conviction.
- (c) On or about December 29, 1998, Respondent applied to renew his license to practice nursing in the State of Kansas. On the application submitted by the respondent he stated that he had not been convicted of a misdemeanor or felony.
- (d) On or about December 31, 2002, Respondent applied to renew his license to practice nursing in the State of Kansas. On the application submitted by the respondent he stated that he had been convicted of a misdemeanor. Respondent did not provide other information about the conviction.
- (e) On or about February 20, 2003, Respondent was convicted of Harassment by Telephone, a misdemeanor. The conviction occurred in the Municipal Court of Hutchinson, Kansas.
- (f) On or about March 5, 2003, Respondent was convicted of Disorderly Conduct, a misdemeanor. The conviction occurred in the Municipal Court of Hutchinson, Kansas.
- (g) On or about December 14, 2004, Respondent applied to renew his license to practice nursing in the State of Kansas. On the application submitted by the respondent he stated that he had been convicted of a misdemeanor. Respondent provided documentation showing he was convicted of Harassment by Telephone, a misdemeanor, on February 20, 2003, in the Municipal Court of Hutchinson, Kansas. Respondent provided documentation showing he was convicted of Disorderly Conduct, a misdemeanor, on March 5, 2003, in the Municipal Court of Hutchinson, Kansas. Respondent did not provided information regarding his other convictions.

(h) On or about January 13, 2005, Respondent was notified in writing to provide the Kansas State Board of Nursing certified/dated copies of his October 1990 conviction for shoplifting as well as an explanation as to why he has never reported said conviction to the KSBN. On or about June 1, 2005, Respondent was notified in writing that he had not provided the requested documents. Respondent was advised that it may be considered a violation of the Kansas Nurse Practice Act to not provide the documents. On or about August 9, 2005, Respondent was sent a third notice regarding the requested documents due to his lack of response to the first and second notices. Respondent has yet to provide the requested information.

7. 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)(1), to be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing; K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board; 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; K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (t), failing to furnish the board, its investigators, or its representatives with any information legally requested by 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(a) is established.

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

Count 1: K.S.A.65-1120(a)(1), to be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing.

Count 2: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board.

Count 3: 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.

Count 4: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (t), failing to furnish the board, its investigators, or its representatives with any information legally requested by 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(b) and K.S.A.77-501 et seq. and to judicial review.

13. 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. The Kansas State Board of Nursing will not take disciplinary action against respondent's nursing license for the violations stated above as long as respondent meets the following requirements:

- (a) The respondent shall **immediately inform all employers and prospective employers of this Consent Agreement and the Final Order.**
- (b) Respondent shall **send a money order for \$70 to the Board upon entering into this agreement to pay the cost of this action.**
- (c) Respondent shall **not violate the Kansas Nurse Practice Act during the duration of this agreement.**
- (d) 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.
- (e) The respondent will **complete a Continuing Nurses Education (CNE) course on the topic of "Ethics and Professional Boundaries in Healthcare." The respondent will complete a CNE course on the topic of "The Nurse Practice Act."** Respondent is to submit the original certificates for **proof of the completion of the CNE courses within 60 days** of this agreement. **Respondent may not use these hours to meet the CNE requirements of any renewal period.**
- (f) 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: Prior to respondent securing employment that utilizes respondent's 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 respondent's nursing license, or if respondent is currently employed in a position that utilizes respondent's 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. 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
 - c. supervisor evaluations
 - d. overall appropriateness
 - e. interactions with patients
 - f. interactions with staff and administration

(g) 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.

(h) Respondent is responsible for the costs related to satisfying these conditions and requirements.

14. If respondent does not meet these requirements, then 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 agreement, but respondent could not contest the violations listed in this agreement.

15. 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 Nurse Practice Act committed by the respondent before or after this agreement is entered into.

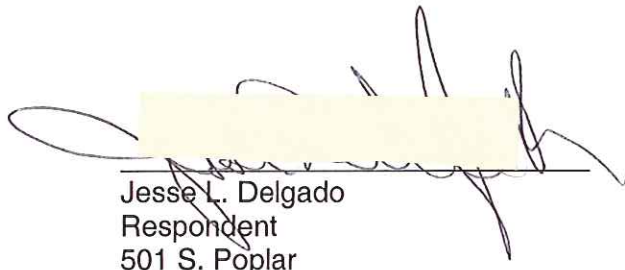
16. This agreement is a contract entered into by the parties to resolve a REVOCATION case. The original of this agreement shall be placed in the Agency Record and is a public record.

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

18. After successful completion of all of the requirements of this Consent Agreement by the respondent, the Consent Agreement will be satisfied and the case will be inactivated.

IN WITNESS WHEREOF, the parties hereto execute this CONSENT AGREEMENT AND FINAL ORDER.

IT IS SO ORDERED.



Jesse L. Delgado
Respondent
501 S. Poplar
South Hutchinson, KS 67505

Jesse L. Delgado must sign before a Notary Public.

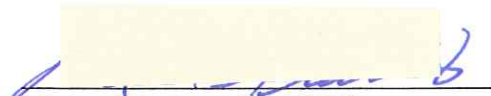
State of Kansas, County of Reno ss.

SUBSCRIBED AND SWORN TO before, me by Jesse L. Delgado
on this 19th day of May, 2006.



Signature of Notary Public


My Commission Expires _____
(Notary Public Seal)



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Counsel for Respondent
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Topeka, KS 66604



Mark A. Knight, #12183
Assistant Attorney General
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612-1230




Sandra L. Sharon
Administrative Hearing Officer

CERTIFICATE OF SERVICE

On the 31st day of May, 2006, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Jesse L. Delgado
501 S. Poplar
South Hutchinson, KS 67505

Michael E. Francis, #8783
Counsel for Respondent
5100 SW 10th, Suite 100
Topeka, KS 66604



Mark A. Knight, #12183
Assistant Attorney General