

BEFORE THE KANSAS STATE BOARD OF NURSING  
LANDON STATE OFFICE BUILDING  
900 S.W. JACKSON  
TOPEKA, KANSAS 66612-1230

IN THE MATTER OF )  
SHERRY RECORD )  
LICENSE NO. 13-055827-082 )

Case No: 98-0329-8

**ORDER DENYING REQUEST TO VACATE**

**NOW ON THIS** 12<sup>th</sup> day of January, 2000, the respondent's request to vacate the proposed default order comes on for hearing before Terry E. Beck, the board's designated hearing officer. Petitioner appears by litigation counsel, Michelle A. Davis. Respondent does not appear.

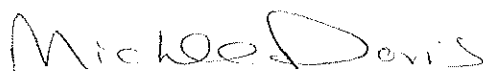
**WHEREUPON**, the hearing officer finds as follows:

1. A proposed default order was issued and respondent filed a request to vacate said order which was set for hearing today.
2. Respondent was given notice of this hearing by mail November, 4, 1999.

**IT IS THEREFORE ORDERED THAT** the request to vacate is denied and the proposed default order shall remain in effect as issued.

  
\_\_\_\_\_  
Terry E. Beck, Hearing Officer

Prepared by:

  
\_\_\_\_\_  
Michelle A. Davis #14116  
900 S.W. Jackson, Suite #551-S  
Topeka, Kansas 66612-1230  
785/296-8400  
Litigation counsel

**CERTIFICATE OF SERVICE**

This is to certify that on the 26<sup>th</sup> day of January, 2000, I deposited a true and correct copy of the above order in the United States Mail, postage prepaid and addressed to the following:

Sherry Record  
5731 SW 22<sup>nd</sup> Street Terrace  
Topeka, Kansas 66614

Michelle Davis

Michelle A. Davis  
Litigation Counsel

Rex G. Beasley #08777  
Assistant Attorney General  
Kansas State Board of Nursing  
Landon State Office Building  
900 SW Jackson, Suite 551-S  
Topeka, Kansas 66612-1230  
(785) 296-8401

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IN THE MATTER )  
 )  
OF ) Case No: 98-0329-8  
 )  
SHERRY RECORD )  
LICENSE NO. 23-010281-011 )

**PROPOSED DEFAULT ORDER**

On the 6<sup>th</sup> day of July, 1999 the above-captioned matter came on for a hearing before Terry E. Beck, the Board's designated Hearing Officer. The Petitioner appeared by and through Assistant Attorney General Rex G. Beasley Disciplinary Counsel for the Board. The Respondent did not appear.

Whereupon, the Hearing Officer asked the Petitioner if it was ready to proceed. Petitioner's counsel stated that the Board was ready and, pursuant to K.S.A. 77-520, made an oral motion for a default judgment based on the Respondent's failure to appear. In support of the motion, the Petitioner stated and showed the following:

1. Notice of the hearing date and time was duly served upon the Respondent at her last address known to the Board.

2. No request for a continuance was ever made. Respondent did not appear at the hearing.

3. The allegations of the Board's motion are true.

WHEREUPON, the Hearing Officer made the following findings of fact and conclusions of law:

1. Respondent was given proper notice as required by law.
2. Respondent failed to appear and was in default.
3. On May 4, 1999 Respondent and the Board entered into a Consent Agreement. On May 11, 1999 the Consent Agreement was approved and a Final Order entered. The Final Order found that Respondent violated the Kansas Nurse Practice Act by *inter alia*, verbally abusing a patient, falsifying time records, and failing to administer medications as prescribed per doctor's orders.
4. Pursuant to both the Consent Agreement and the Final Order the Respondent's license was renewed and then simultaneously suspended and limited through the period of licensure, January 31, 2001. The suspension was stayed, allowing the Respondent to continue to practice under the certain terms and conditions including the following:

(a) Respondent was required to immediately inform all employers of the Consent Agreement and the Final Order. Within 14 days of the Final Order Respondent was required to cause her nursing employer to notify the Board in writing of the employer's receipt of copies of the Consent Agreement and the Final Order. Respondent was also required to

cause her employer(s) to provide quarterly reports for the period of her licensure. The reports were required to be prepared by Respondent's immediate nursing supervisor or by an R.N. who evaluates Respondent's performance on a regular basis. The first quarterly report was due on May 20, 1999.

(b) Respondent was required to notify the Board's Practice Specialist of the name of her employer and immediate supervisor within 14 days of the Final Order.

(c) Respondent was prohibited from misrepresenting her licensure status.

(d) Respondent was prohibited from handling or administering narcotics, psychotropic medications, or other mood altering drugs. Respondent was prohibited from carrying keys for, or having access to, storage areas where such substances are stored or kept. She was prohibited from being involved with retrieval of, or assisting in the retrieval, of such substances from the pharmacy, and from participating directly, indirectly, or as a witness, in the destruction or wasting of such substances.

(e) Respondent was required to attend and submit to the Board evidence of her participation in a minimum of 2 (two) 12-step meetings per week.

5. The Consent Agreement and Final Order both provided that any unsatisfactory reports from Respondent's supervisor in nursing, or any reports of a

reportable incident under Risk Management Law, or a violation of the Kansas Nurse Practice Act, or failure to comply with any of the conditions of the Consent Agreement or this Final Order may, at the sole discretion of the Board, constitute a breach of the Consent Agreement and the Final Order.

6. The allegations in the motion are true. Since the issuance of the license, Respondent has committed acts in violation of K.S.A. 65-1113 *et. seq.*, the Consent Agreement, and the Final Order as follows:

(a) Respondent began working for Plaza West Regional Health Center on June 7, 1999 as an LPN. Respondent did not immediately inform her employer of the Consent Agreement and the Final Order. Respondent did not cause her nursing employer to notify the Board in writing of the receipt of copies of the Consent Agreement and the Final Order.

(b) Respondent did not cause her employer(s) to provide the quarterly report due on May 20, 1999.

(c) Respondent did not notify the Board's Practice Specialist of the name of her employer and immediate supervisor within 14 days of the Final Order.

(d) Respondent misrepresented her licensure status.

(e) Respondent handled and administered narcotics, psychotropic medications, or other mood altering drugs. Respondent carried keys for, and had access to, storage areas where such substances are stored or kept.

(f) Respondent failed to attend and submit to the Board evidence of her participation in a minimum of 2 (two) 12-step meetings per week.

(g) Over the weekend of June 13, and 14, 1999 Respondent committed numerous medication errors, verbally abused patients and otherwise violated the Kansas Nurse Practice Act and the Final Order.

7. The Consent Agreement and the Final Order both provide that in the event the Board should move for an order lifting the stay the only issue will be whether Respondent has strictly complied with every term and condition of the Consent Agreement and this Final Order.

8. Respondent was given the opportunity to save her nursing privileges. She was given the choice and control over her continued right to practice nursing; she alone could choose to either comply with the terms and conditions that prevented the imposition of the suspension or ignore the Board's requirements and have the suspension implemented. Respondent chose not to meet the terms and conditions required to maintain the stay; accordingly the suspension must be immediately implemented for the remainder of Respondent's license.

9. Respondent's actions constitute a violation of the Kansas Nurse Practice Act, the Consent Agreement, the Final Order, and the public's trust, for which she should be disciplined.

10. The Board's motion should be granted. The stay of the suspension of Respondent's license should be immediately lifted and the Respondent's license suspended.

**IT IS THEREFORE ORDERED** that the stay of the suspension of Respondent's license to practice as a nurse in Kansas should be, and is hereby, lifted and Respondent's license suspended. Respondent may not practice as a nurse in the state of Kansas. Respondent may not hold herself out as, or represent herself to be, a nurse in the State of Kansas. Respondent shall immediately surrendered her license card and all other evidence of licensure, if any, to the Board. Costs of the action in the sum of \$35.00 are hereby taxed to Respondent to be paid to the Board by cash, or money order, within 30 days of the effective date of this Order.

**IT IS SO ORDERED.**

Entered this 19 day of July, 1999.



Terry E. Beck  
Hearing Officer

PREPARED AND SUBMITTED BY:



Rex G. Beasley  
Disciplinary Counsel



NOTICE REGARDING THIS PROPOSED DEFAULT ORDER

This is a Proposed Default Order. The party against whom it is issued may file a written motion within seven (7) days after service, requesting that the Proposed Default Order be vacated and stating the grounds relied upon. Unless a written motion to vacate is filed, the Proposed Default Order shall become effective after expiration of the time Stated above. If a motion to vacate a Proposed Default Order is timely filed, the Presiding Officer shall either vacate the Proposed Order or issue the Default Order as proposed. If the Hearing Officer issues a Default Order as proposed, the Order shall become effective upon service.

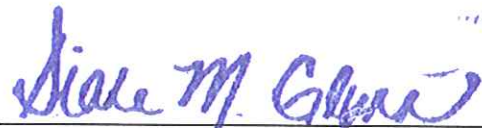
CERTIFICATE OF SERVICE

This is to certify that on the 20th day of July, 1999, I deposited a true and correct copy of the Proposed Default Order in the United States Mail, first class mail, postage prepaid to the following:

Sherry Record  
5731 SW 22nd Terrace #5  
Topeka, Kansas 66614

and by hand delivery to:

Rex G. Beasley  
Assistant Attorney General  
Kansas State Board of Nursing  
900 S.W. Jackson Rm 551-S  
Topeka, Kansas 66612-1230



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

Rex G. Beasley #08777  
Assistant Attorney General  
Kansas State Board of Nursing  
Landon State Office Building  
900 SW Jackson, Suite 551-S  
Topeka, Kansas 66612-1230  
(785) 296-8401

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**MOTION TO LIFT STAY AND TO SUSPEND RESPONDENT'S LICENSE**

COMES NOW the Kansas State Board of Nursing, hereinafter referred to as the "Board," by and through its Disciplinary Counsel, Assistant Attorney General Rex G. Beasley, and moves for an order lifting the stay and immediately suspending the Respondent's license to practice nursing. In support hereof it is shown as follows:

1. On May 4, 1999 Respondent and the Board entered into a Consent Agreement. On May 11, 1999 the Consent Agreement was approved and a Final Order entered. The Final Order found that Respondent violated the Kansas Nurse Practice Act by *inter alia*, verbally abusing a patient, falsifying time records, and failing to administer medications as prescribed per doctor's orders.
2. Pursuant to both the Consent Agreement and the Final Order the Respondent's license was renewed and then simultaneously suspended and limited through

the period of licensure, January 31, 2001. The suspension was stayed, allowing the Respondent to continue to practice under the certain terms and conditions including the following:

(a) Respondent was required to immediately inform all employers of the Consent Agreement and the Final Order. Within 14 days of the Final Order Respondent was required to cause her nursing employer to notify the Board in writing of the employer's receipt of copies of the Consent Agreement and the Final Order. Respondent was also required to cause her employer(s) to provide quarterly reports for the period of her licensure. The reports were required to be prepared by Respondent's immediate nursing supervisor or by an R.N. who evaluates Respondent's performance on a regular basis. The first quarterly report was due on May 20, 1999.

(b) Respondent was required to notify the Board's Practice Specialist of the name of her employer and immediate supervisor within 14 days of the Final Order.

(c) Respondent was prohibited from misrepresenting her licensure status.

(d) Respondent was prohibited from handling or administering narcotics, psychotropic medications, or other mood altering drugs. Respondent was prohibited from carrying keys for, or having access to, storage areas where such substances are stored or kept. She was prohibited from being involved with retrieval of, or assisting in the retrieval, of such substances from the pharmacy, and from participating directly, indirectly, or as a witness, in the destruction or wasting

of such substances.

(e) Respondent was required to attend and submit to the Board evidence of her participation in a minimum of 2 (two) 12-step meetings per week.

3. The Consent Agreement and Final Order both provided that any unsatisfactory reports from Respondent's supervisor in nursing, or any reports of a reportable incident under Risk Management Law, or a violation of the Kansas Nurse Practice Act, or failure to comply with any of the conditions of the Consent Agreement or this Final Order may, at the sole discretion of the Board, constitute a breach of the Consent Agreement and the Final Order.

4. The Board has conducted an investigation, and determined that Respondent has violated the Consent Agreement and the Final Order, and committed further acts in violation of the Kansas Nurse Practice Act, K.S.A. 65-1113 *et seq.* as follows:

(a) Respondent began working for Plaza West Regional Health Center on June 7, 1999 as an LPN. Respondent did not immediately inform her employer of the Consent Agreement and the Final Order. Respondent did not cause her nursing employer to notify the Board in writing of the receipt of copies of the Consent Agreement and the Final Order.

(b) Respondent did not cause her employer(s) to provide the quarterly report due on May 20, 1999.

(c) Respondent did not notify the Board's Practice Specialist of the name of her employer and immediate supervisor within 14 days of the Final Order.

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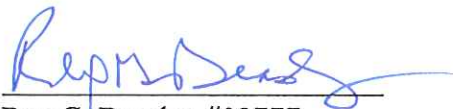
(g) Over the weekend of June 13, and 14, 1999 Respondent committed numerous medication errors, verbally abused patients and otherwise violated the Kansas Nurse Practice Act and the Final Order.

4. The Consent Agreement and the Final Order both provide that in the event the Board should move for an order lifting the stay the only issue will be whether Respondent has strictly complied with every term and condition of the Consent Agreement and this Final Order.

Respondent was given the opportunity to save her nursing privileges. She was given the choice and control over her continued right to practice nursing; she alone could choose to either comply with the terms and conditions that prevented the imposition of the suspension or ignore the Board's requirements and have the suspension implemented. Respondent chose not to meet the terms and conditions required to maintain the stay; accordingly the suspension must be immediately implemented for the remainder of Respondent's license.

Respectfully submitted,

CARLA J. STOVALL  
Attorney General



Rex G. Beasley #08777  
Assistant Attorney General  
Attorney for Petitioner