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FILED

BEFORE THE KANSAS STATE BOARD OF NURSING
Landon State Office Building, 900 S.W. Jackson #1051
Topeka, Kansas 66612-1230

AUG - 5 2008

KSBN

IN THE MATTER OF
STEPHEN D. CAILTEUX
License No. 23-011623-042

Case No. 08-293-8

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CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 16th day of August, 2008, the Kansas State Board of Nursing, represented by Assistant Attorney General, Mark A. Knight, and the Respondent, Stephen D. Cailteux, 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 through 4/30/2010. 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 900 SW Robinson Ave. Apt. 102, Topeka, KS 66606.
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) On or about 9/30/1970, Respondent was convicted of Possession of Open Cereal Malt Beverage on Public Thoroughfare, a misdemeanor, in the Municipal Court of Wichita, Kansas, case number L53212.

(b) On or about 10/15/1970, Respondent was convicted of Disorderly Conduct, a misdemeanor, in the Municipal Court of Wichita, Kansas, case number L56163.

(c) On or about 7/2/1979, Respondent submitted his original application to practice nursing in the State of Kansas. Question number 8 of the application asked, "Have you ever been convicted of a crime other than traffic violations?" Respondent answered "No".

(d) On or about 1/6/1988, Respondent entered a Diversion Agreement for a charge of Driving Under the influence, in the Municipal Court of Wichita, Kansas, case number 87C64968. Respondent successfully completed the Diversion Agreement and the case was dismissed on 1/19/1989.

(e) On or about 6/23/1999, Respondent was convicted of Driving Under the Influence, a misdemeanor, in the Municipal Court of Rossville, Kansas, case number Z-99-5377.

(f) On or about 11/18/1999, Respondent was convicted of Driving While Suspended, a misdemeanor, in the Municipal Court of St. Mary's, Kansas, case number 99-375.

(g) On or about 2/9/2000, the KSBN received a renewal application from the Respondent. Question number 10 of the application asked, "Have you ever been convicted of a misdemeanor or felony?" Respondent answered "No" to this question.

(h) On or about 2/26/2002, the KSBN received a renewal application from the Respondent. Question number 12 of the application asked, "Have you ever been convicted of a misdemeanor?" Respondent answered "No" to this question.

(i) On or about 9/30/2003, Respondent was convicted of Driving Under the Influence (2nd Offense), a misdemeanor, in the District Court of Pottawatomie County, Kansas, case number 03TR949.

(j) On or about 3/29/2004, the KSBN received a renewal application from the Respondent. Question number 12 of the application asked, "Have you ever been convicted of a misdemeanor?" Respondent answered "No" to this question.

(k) On or about 11/15/2007, Respondent was convicted of Driving Under the Influence (3rd Offense), a felony, in the District Court of Shawnee County, Kansas, case number 07CR786.

(l) On or about 3/21/2008, the KSBN received a license renewal application from Respondent. Question number 7 of the application asked, "Have you ever been convicted of a misdemeanor?" Respondent answered "Yes" and provided, "Pottawatomie County, KS." Respondent did not report the other above listed misdemeanor convictions. Question number 8 of the application asked, "Have you ever been convicted of a felony?" Respondent answered "Yes" and provided, "Topeka, KS."

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)(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..."; 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.

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)(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)(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(d), inaccurately recording, falsifying, or altering any record of a patient or agency or 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. 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.

14. 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 suspended. The suspension will be stayed as long as the requirements and conditions of this agreement are met.

15. 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 return his or her current license card to the Board with this Consent Agreement. Respondent shall receive a license card which shall be issued with an "S" placed in the status code portion of the license card to indicate that the license is suspended with a Stay.**

(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 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.**

(e) **The respondent shall immediately inform all employers and prospective employers of this Consent Agreement and the Final Order.**

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

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

(h) **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.

(i) **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.**

16. 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.

17. 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.

18. 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, if any. 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.

19. 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.

20. 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.

21. 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.

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 and is a public record.


24. 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 case will be inactivated.

25. 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.

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 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.


Stephen D. Cailteux
Stephen D. Cailteux
Respondent
900 SW Robinson Ave. Apt. 102
Topeka, KS 66606

Stephen D. Cailteux must sign before a Notary Public.

State of Kansas, County of Shawnee ss.
SUBSCRIBED AND SWORN TO before, me by Stephen D. Cailteux

on this 30th day of July, 2008.

Traci L. Mercer My Commission Expires 4/27/2011
Signature of Notary Public (Notary Public Seal)

Mark A. Knight
Mark A. Knight, #12183
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612



Sandra L. Sharon
Sandra L. Sharon, Presiding Officer

CERTIFICATE OF SERVICE

On the 8th day of August, 2008, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Stephen D. Cailteux
900 SW Robinson Ave. Apt. 102
Topeka, KS 66606



Mark A. Knight, #12183
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612