

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

FEB 20 2009

**IN THE MATTER OF
STARLA D. LECLAIR
License No. 23-015707-031**

KSBN

**Case No. 06-310-2, 07-686-2, 08-287-2
OAH No. 09BN0057**

CONSENT AGREEMENT TO SURRENDER AND REVOKE LICENSE AND FINAL ORDER

NOW ON THIS 24th day of February, 2009, the Kansas State Board of Nursing, represented by Assistant Attorney General, Mark A. Knight, and the Respondent, Starla D. LeClair, 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

The hearing officer makes the following findings of fact based on the evidence presented and statements of the parties.

1. Respondent is licensed to practice nursing in Kansas through 3/31/2009. 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 Rt 3 Box 49a, Norton, KS 67654.
3. 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 Respondents 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.
4. The Board has requested that a petition be filed to take disciplinary action against the Respondent's license.

5. Following a petition being filed by the Board, a hearing would also be held at a later date at which time the Board would have to prove that Respondent violated K.S.A. 65-1120(a).

6. Respondent has the right to these hearings and the right to seek review of the findings from the hearings 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 knowingly and voluntarily entering into this agreement instead of proceeding to these hearings. This agreement will conclude Board action pending at this time against Respondent's license.

7. Respondent understands that pursuant to K.S.A. 77-515, Respondent may be represented at Respondent's expense by, an attorney during these proceedings.

8. (a) A petition was filed 11/17/2008 to take disciplinary action against the Respondent's license. The petition alleged that on or about 12/2/2005, Respondent was employed as Director of Nursing at Whispering Pines, Norton, KS. On or about 12/2/2005 was provided a list of medications missing from the discontinued medication box. Pursuant to Whispering Pines policy, Respondent was to report the missing medication to the facility administrator. Respondent did not report the missing medications to the facility administrator.

(b) On or about 1/3/2006, Respondent was terminated from Whispering Pines. Respondent returned to the Whispering Pines facility and confronted a resident, EH. Respondent accused EH of lying regarding missing medications. Respondent then called the daughter of EH and accused the daughter and EH of lying regarding missing medications.

(c) On or about 3/5/2006, Respondent completed a Phillips County Hospital Application for Employment, Respondent wrote as her reason for leaving Whispering Pines as "Needed more time off (Call etc..)." Respondent was terminated from Whispering Pines on 1/3/2006.

(d) On or about 5/30/2007, Respondent entered a Diversion Agreement for a charge of Driving Under the Influence, in the District Court of Norton County, Kansas, case number 2007-TR-177.

(e) On or about 3/11/2008, Respondent was not feeling well and was admitted to Phillips County, Hospital, Phillipsburg, KS. While in the hospital Respondent ingested several Percocet at one time. The Percocet had been prescribed for Respondent earlier on 3/11/2008. Percocet is a narcotic prescription only pain medication. Respondent was treated for the overdose of Percocet.

(f) In a letter dated 2/5/2009, Respondent expressed her desire to surrender her license to practice nursing in the state of Kansas.

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 Respondents 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)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol.

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(c), failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient.

POLICY STATEMENT

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

DISPOSITION

12. Based upon this agreement, the parties agree that Respondent is surrendering Respondent's license to practice nursing in the state of Kansas.

13. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that Respondent's license to practice nursing in Kansas is immediately revoked. Respondent shall not practice nursing in the state of Kansas.

14. Upon signing this agreement and returning it to the Board, Respondent shall return Respondent's license card with the agreement.

15. The Board will report this surrender and revocation to data banks, other entities, and in its newsletter. This is a disciplinary action on Respondent's license. The original of this document shall be kept in the Board's agency file. This Agreement is a public record and will be reported to national disciplinary data banks.

16. If Respondent does seek reinstatement of Respondent's license, the agreed facts and listed violations are admitted, Respondent has waived the right to a hearing on the facts in this matter, however to receive a reinstatement of Respondent's license the Respondent will have the opportunity at that time to prove Respondent's fitness to practice nursing in Kansas.

17. 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.

18. By their signatures, the parties hereby acknowledge this agreement.

IN WITNESS WHEREOF, the parties hereto execute this CONSENT AGREEMENT TO SURRENDER AND REVOKE LICENSE AND FINAL ORDER.

IT IS SO ORDERED.

Starla D. LeClair
Respondent
Rt 3 Box 49a
Norton, KS 67654

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, Presiding Officer

CERTIFICATE OF SERVICE

On the 24th day of February, 2009, I mailed a copy of this CONSENT AGREEMENT TO SURRENDER AND REVOKE LICENSE AND FINAL ORDER to:

Starla D. LeClair
Rt 3 Box 49a
Norton, KS 67654



Mark A. Knight, #12183
Assistant Attorney General