

BEFORE THE KANSAS STATE BOARD OF NURSING
LONDON STATE OFFICE BUILDING
900 S.W. JACKSON RM 551-S
TOPEKA, KANSAS 66612-1230

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KSBN LEGAL

IN THE MATTER OF:)
)
)
CHERYL BALDWIN)
LICENSE NO. 23-016646-032)

CASE NO. 93-0466-1

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CONSENT AGREEMENT AND FINAL ORDER

COMES NOW the Petitioner, the Kansas State Board of Nursing, hereinafter referred to as the "Board", by and through Assistant Attorney General Mark S. Braun, and the Respondent, Cheryl Baldwin, pro se, and respectfully request the Board, or its designee, to approve this Consent Agreement and Final Order as the resolution in this case. By entering into this Consent Agreement and Final Order, both parties waive their right to a full administrative hearing pursuant to K.S.A. 65-1120(b) and K.S.A. 77-523. This Consent Agreement and Final Order affects the Respondent's license to practice as a licensed practical nurse (L.P.N.) in Kansas.

AGREEMENT

It is the intent and purpose of this Consent Agreement and Final Order to provide for settlement of all issues currently before the Board without the necessity of a formal hearing. Respondent knowingly and intelligently waives her right to a hearing on the issues currently before the Board relating to her license. The parties agree as follows:

1. Both parties to this Agreement acknowledge that the Board received information and conducted an investigation as to whether Respondent violated the Kansas Nurse Practice Act. Based on that investigation, there are reasonable grounds to believe Respondent violated the Act.

2. Respondent acknowledges and understands that: she has the right to obtain an attorney and be represented through this matter by an attorney; she has the right to a full and fair hearing on the allegations made by the Petitioner. At such hearing, the Petitioner would be required to present witnesses and evidence in support of the allegations; she has the opportunity to cross-examine Petitioner's witnesses; has the opportunity to present witnesses and evidence on her behalf; the matter would be decided on the evidence presented and a decision would include findings of fact and conclusions of law; the right to seek reconsideration of any adverse order issued by the Board and the right to seek judicial review of any adverse Board order or decision. Respondent understands that by entering into this Consent Agreement and Final Order, she is waiving all of the above-mentioned rights.

3. In lieu of proceeding to a full hearing, Respondent stipulates to Count I of the Petition. Respondent understands that by stipulating to that count, she is admitting to a violation of the Kansas Nurse Practice Act.

4. Pursuant to the disciplinary remedies available in K.S.A. 65-1120, Respondent's license to practice as a licensed practical nurse (L.P.N.) will be suspended for a period of thirty (30) days

from September 18 - October 17, 1994. Further, Respondent shall obtain six (6) hours of continuing nursing education on the topic of nursing and the law. These six (6) hours must be pre-approved by the Board's practice specialist. These (6) hours are in addition to, and not to be counted toward, the thirty (30) hours of mandatory continuing nursing education for license renewal. Proof of earning the six hours shall be submitted to the Board's Practice Specialist within ten (10) days of taking the classes. The six (6) additional hours must be taken and proof submitted on or before July 20, 1995.

5. By signing this Consent Agreement and Final Order, Respondent acknowledges she has read the entire document; and that she agrees to be bound by this document.

6. Should the Board, or its designee, modify or change the Consent Agreement and Final Order in any manner unsatisfactory to either party, either party may withdraw its consent and the matter will proceed to hearing. Further, if the Consent Agreement and Final Order, as signed by the parties, is not acceptable to the Board, or its designee, neither party shall be bound to any representations made in this agreement.

FINDINGS OF FACT

1. Respondent is licensed to practice as a licensed practical nurse (L.P.N.), in the State of Kansas, having been issued license number 23-016646-032, with an expiration date of March 31, 1996.

2. The Board received information and conducted an investigation into alleged violations of the Kansas Nurse Practice Act by the Respondent.

3. The Board found there were reasonable grounds to believe Respondent violated the Kansas Nurse Practice Act.

4. On at least five (5) occasions, Respondent, while employed as an L.P.N. for a physician in Dodge City, Kansas, called a pharmacy to order refill prescriptions for a patient of the physician. The Respondent did not have an order or authorization from the physician to call in the refill orders.

5. Respondent's conduct in making the calls was fraudulent and deceitful.

6. Respondent stipulates and admits to Counts I as contained in the Petition.

7. In lieu of proceeding to a full administrative hearing, the parties have agreed to enter into and be bound by this Consent Agreement and Final Order.

8. The Parties understand and acknowledge that, pursuant to K.S.A. 45-215 et seq., the signed original of the Consent Agreement and Final Order shall remain in the custody of the Board as a public record.

CONCLUSIONS OF LAW

1. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter pursuant to K.S.A. 65-1120.

2. Respondent is not represented by counsel. Respondent is aware of her rights under the United States and Kansas

Constitutions, the Kansas Nurse Practice Act and the Kansas Administrative Procedures Act. Based on the knowledge of her rights, Respondent has knowingly, intelligently, and voluntarily waived her rights and entered into this Consent Agreement and Final Order. In lieu of proceeding to a full administrative hearing, Respondent waives her rights to: an adjudicative administrative hearing in which the evidence and witnesses would be presented; cross-examination of those witnesses against her; the opportunity to present witnesses and evidence on her behalf; a decision by the Board or its designee based on the evidence; findings of facts and conclusions of law; the right to seek reconsideration by the Board of any adverse decision and the right to seek judicial review by a district court of any adverse decision by the Board.

3. Respondent has stipulated and admitted to Count I as contained in the Petition. Based on those stipulations, Respondent has violated the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq.

4. Respondent is guilty of fraud and deceit in the practice of nursing, in violation of K.S.A. 65-1120(a)(1).

5. The Respondent has violated the Kansas Nurse Practice Act, specifically K.S.A. 65-1120(a)(1).


6. The Petitioner and Respondent have entered into this Consent Agreement and Final Order which, when signed by both parties and the Board or its designee, will be binding on the parties and the Board.

FINAL ORDER

WHEREFORE, based on the foregoing Agreement, Findings of Fact and Conclusions of Law, IT IS THEREFORE ORDERED that the following action will be taken against the Respondent's license to practice as a licensed practical nurse (L.P.N.) in the State of Kansas:

Pursuant to the disciplinary remedies available in K.S.A. 65-1120, Respondent's license to practice as a licensed practical nurse (L.P.N.) will be suspended for a period of thirty (30) days from September 18 - October 17, 1994. Further, Respondent shall obtain six (6) hours of continuing nursing education on the topic of nursing and the law. These six (6) hours must be pre-approved by the Board's practice specialist. These (6) hours are in addition to, and not to be counted toward, the thirty (30) hours of mandatory continuing nursing education for license renewal. Proof of earning the six hours shall be submitted to the Board's Practice Specialist within ten (10) days of taking the classes. The six (6) additional hours must be taken and proof submitted on or before July 20, 1995.


IN WITNESS WHEREOF, the parties hereunto execute this Consent Agreement and Final Order:



Cheryl Baldwin
Respondent

10-11-94

DATE


Mark S. Braun

MARK S. BRAUN
Assistant Attorney General
Board Disciplinary Counsel


10-19-94

DATE

WHEREFORE, the provisions stated above are hereby adopted and made the Final Order of the Kansas State Board of Nursing.

IT IS SO ORDERED.

Dated this 21st day of October, 1994

A


Board Representative or
Board Designee

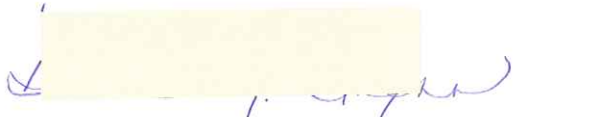
CERTIFICATE OF SERVICE

This is to certify that a copy of this CONSENT AGREEMENT AND FINAL ORDER was served by placing same in the United States Mail, first class, postage prepaid this 26th day of October, 1994, to:

Cheryl Baldwin
PO Box 453
Spearville, Kansas 67876

and by hand delivering a copy to

Mark S. Braun
Assistant Attorney General
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson Rm 551-S
Topeka, Kansas 66612-1230



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