

BEFORE THE KANSAS STATE BOARD OF NURSING
LONDON STATE OFFICE BUILDING
900 S.W. JACKSON, ROOM 551-S
TOPEKA, KANSAS 66612-1230
TELEPHONE (913) 296-8401

IN THE MATTER OF:)
)
ANNE MARIE PROCHASKA)
LICENSE NO. 13-047067-121)

CASE NO. 93-0218-8



INITIAL ORDER

Now on this 22nd day of March, 1994, the above-captioned matter comes on for hearing before Helen R. Rice, the Board's designated Hearing Officer, on the Petition filed with the Board. The Petitioner appears through Assistant Attorney General Mark S. Braun, Disciplinary Counsel for the Board. The Respondent, Anne Marie Prochaska appears in person, pro se.

The Hearing Officer notes for the record that the Petition was originally served on the Respondent at her address last known to the Board on March 9, 1994. The Hearing Officer asks both sides if they are ready to proceed. Both sides indicate they are ready. The Hearing Officer asks if there are any preliminary matters. There are none.

The Hearing Officer asks the Respondent if she wants the charges in the Petition formally read to her. Respondent waives the reading of the charges in the Petition. The Hearing Officer asks the Respondent if she has any objections to the form of the Petition; the filing of the Petition; notice of the proceedings; or the Board's or the designated Hearing Officer's authority to hear this matter. Respondent states she has no such objections.

The Hearing Officer then informs the Respondent that she has three options relating to the charges in the Petition: (1), She may deny the allegations and the matter will proceed to a full evidentiary hearing; (2), she may stipulate or admit to the allegations whereupon the Hearing Officer will make a finding that the Respondent has violated the Nurse Practice Act and the matter will proceed to disposition at which the Hearing Officer will decide what action to take against the Respondent's license; or, (3), she can neither admit nor deny the allegations, but not contest them, whereupon the Hearing Officer, after a proffer of evidence, will make a finding that the Respondent violated the Nurse Practice Act and the matter will proceed to disposition at which the Hearing Officer will decide what action to take against the Respondent's license. The Hearing Officer asks the Respondent if she understands her options. Respondent after further explanation by the Hearing Officer, states that she does understand, and that she wants the third option, neither admitting to the allegations in the Petition nor contesting them.

The Hearing Officer asks the Petitioner for any statement or evidence related to the violation alleged. Petitioner moves for the admission of Petitioner's Exhibits Nos. 1 and 2. Exhibit No. 1 is certified copy of the order of discipline issued by the licensing authority in the state of Missouri. Exhibit No. 2 is a copy of a letter to the Missouri Board of Nursing from Michael S. Dalen regarding an evaluation of Ms. Prochaska. Respondent states she is familiar with the documents and has no objections to the

admission of Petitioner's Exhibits Nos. 1 and 2. The Hearing Officer admits the Exhibits.

The Hearing Officer asks the Respondent if she has any statement, testimony or evidence she wishes to present. The Respondent makes a statement about the status of her agreement with the State Board of Missouri. The Hearing Officer also inquires of the Respondent. The Hearing Officer recesses the hearing for her deliberation in the matter.

After due deliberation, the matter is reconvened and the Hearing Officer, after considering all the testimony and evidence presented in this matter, issues the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. Respondent was issued license number 13-047067-121, which expired December 31, 1995.

2. The Notice of Hearing and Petition in this matter were mailed to the Respondent at her last address known to the Board by first class mail on March 9, 1994.

3. Based on Petitioner's Exhibit No. 1, Respondent had disciplinary action taken against her license to practice nursing by the appropriate licensing authority in the State of Missouri.

4. Respondent, after clarification, does not contest the allegations against her.

5. A review of Petitioner's Exhibit No. 1 indicates Respondent was disciplined in Missouri, by its licensing authority. Respondent states she is in compliance with the Missouri disciplinary

agreement and submitted Respondent's Exhibit No. 1 in support of her statement. No evidence is presented that Respondent is not in compliance with the Missouri disciplinary agreement.

CONCLUSIONS OF LAW

1. The Board and this Hearing Officer have jurisdiction to hear this matter pursuant to the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., and the Kansas Administrative Procedures Act, K.S.A. 77- 501 et seq. Respondent stipulates to such jurisdiction.

2. The Board and, by designation, the Hearing Officer have the authority, after a finding of a violation of the Nurse Practice Act, to implement any of the disciplinary options identified in K.S.A. 65-1120 against the Respondent's license to practice nursing in the state of Kansas, pursuant to the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., and the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

3. K.S.A. 65-1120(b) requires these proceedings of the board to be conducted pursuant to the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

4. Notice of these proceedings and service of the notice of these proceedings were done in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq., and are therefore proper.

5. Respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1113, specifically K.S.A. 65-1120(a)(8), by having disciplinary action taken against her license to practice as a registered

professional nurse (RN) by the licensing authority of another state.

6. Sufficient competent evidence has been presented to prove the violation of the Act, by Petitioner's Exhibit No. 1.

ORDER

IT IS THEREFORE ORDERED that Respondent's application for a license to practice as a registered professional nurse is granted. Said license is immediately suspended for until May 11, 1996 in conjunction with the Missouri Order. Said suspension is immediately stayed. The stay is contingent upon the Respondent meeting the following conditions:

1. Respondent must be in compliance with her disciplinary agreement with the State of Missouri licensing authority.

2. Respondent shall cause to be submitted to the Board's Practice Specialist written quarterly reports from closest immediate supervisor. Such reports shall provide information about Respondent's work performance, attendance, hours of work; and any incident, counselling or disciplinary reports by her employer. The quarterly reports may include the reports currently sent to the Missouri Board every six months as long as reports are submitted in the two other quarters of the year and all such reports provide the previous listed information. Therefore, the reports will be due on the 20th of April, July, October and January of each year beginning April 20, 1994. Respondent's employer shall be provided the Board's quarterly report guidelines.


3. Respondent must submit written notification to the Board's Practice Specialist of any change of employment or address within ten (10) days of such change.

IT IS SO ORDERED.



Helen R. Rice
Hearing Officer

Prepared and Submitted by:



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Assistant Attorney General
Disciplinary Counsel
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NOTICE REGARDING RELIEF FROM THIS ORDER
STATEMENT OF APPEAL RIGHTS

This is an Initial Order. The parties to whom this Initial Order is issued may file a petition for review with the Agency Head within fifteen (15) days after service of this order. The petition for review must state the specific grounds upon which relief is requested. Unless a later date is stated within the Initial Order, a stay is granted, or the order is reviewed, an Initial Order shall become a final order without further notice or proceedings thirty (30) days after the date of service as indicated by the attached certificate of service.

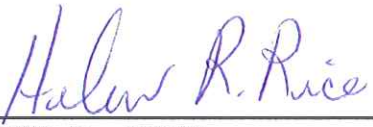
CERTIFICATE OF SERVICE

I, Helen R. Rice, Administrative Hearing Officer in this case, hereby certify that on the 25th day of March, 1994, I deposited a true and correct copy of the Initial Order in the United States Mail, first class mail, postage prepaid to the following:

Anne Marie Prochaska
PO Box 972
Garden City, Kansas 67846

and

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



HELEN R. RICE
HEARING OFFICER