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

IN THE MATTER OF
MITCHELL D. LEE
License No. 23-022293-052

Case No. 08-713-5

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KSBN

FINAL ORDER AND CONSENT AGREEMENT TO SURRENDER AND REVOKE LICENSE

NOW ON THIS 18th day of May, 2012, the Kansas State Board of Nursing, represented by Assistant Attorney General, Alma A. Heckler, and the Licensee, Mitchell D. Lee, 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. Licensee is licensed to practice nursing in Kansas through 5/31/2012. The Kansas State Board of Nursing (KSBN) has jurisdiction over the licensee and the subject matter of this action.
2. Licensee's address of record is 3549 Del Sienna, Wichita, Kansas 67203.
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 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.
4. The Board filed a petition be filed to take disciplinary action against the licensee's license on April 5, 2012.
5. A petition was filed by the Board, a hearing may be held at a later date at which time the Board would have to prove that licensee violated K.S.A. 65-1120(a).

6. Licensee 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. Licensee 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 licensee's license.

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

8. (a) A petition was filed April 5, 2012 to take disciplinary action against the licensee's license.

(b) The petition alleged Respondent entered a Consent Agreement and Final Order (Consent Agreement) on or about November 17, 2008, with the Kansas State Board of Nursing to resolve case number 08-713-5. The Consent Agreement remains in effect until such time as the Respondent completes all conditions and requirements of the Consent Agreement. Respondent has not completed all conditions and requirements of the Consent Agreement.

(c) Conditions of the November 17, 2008 Consent Agreement include a condition that the Respondent participate in and complete the recommendations and requirements of the Kansas Nursing Assistance Program (KNAP).

(d) Respondent requested KNAP to close his KNAP case and it was closed by KNAP on or about March 6, 2012. Respondent is no longer compliant with his Consent Agreement and Final order dated November 17, 2008.

(e) Respondent has not completed any of the four (4) quarterly Employee Performance Evaluations as required by the November 17, 2008 Consent Agreement, because he claims he has been unemployed as a nurse since entering the agreement in 2008.

(f) Respondent has not completed the terms of the November 17, 2008 Consent Agreement and Final Order and has withdrawn from KNAP. Respondent is no longer subject to monitoring and is not safe to practice.

(g) The respondent sent a letter to the board, which was received by the board on April 19, 2012, stating his wish to surrender his license.

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(a) is established.

10. Respondent has violated the Kansas Nurse Practice Act as follows:

Count 1: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(r), failing to comply with any disciplinary order of the board.

Count 2: K.S.A. 65-1120(a)(6), unprofessional conduct, by failing to complete the requirements of the impaired provider program of the board; K.A.R. 30-3-110(s).

POLICY STATEMENT

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

DISPOSITION

12. Based upon this agreement and final order, the parties agree that Licensee is surrendering licensee'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 Licensee's license to practice nursing in Kansas is immediately revoked. Licensee shall not practice nursing in the state of Kansas.

14. Upon signing this agreement and returning it to the Board, licensee shall return licensee'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 licensee'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. The effective date of this Consent Agreement to Surrender and Revoke is the date shown on the certificate of service.

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

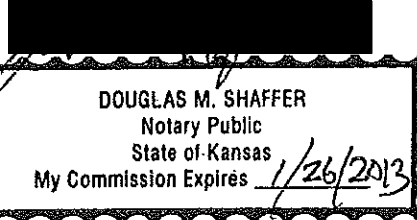
IN WITNESS WHEREOF, the parties hereto execute this FINAL ORDER AND CONSENT AGREEMENT TO SURRENDER AND REVOKE LICENSE.

IT IS SO ORDERED.

[Redacted signature area]

Mitchell D. Lee
Respondent
3549 De. Sienna
Wichita, Kansas 67203

Mitchell D. Lee must sign before a Notary Public.



SIGNED Before me this 1st Day of May, 2012

[Redacted signature area]

Alma A. Heckler, #11555
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

[Redacted signature area]

Sandra Sharon, Presiding Officer
Office of Administrative Hearings

Pursuant to K.S.A. 77-527, either party may request a review of this final order by filing a petition for reconsideration with the Kansas State Board of Nursing. A petition for reconsideration must be filed with 15 days from the date this final order was served. Failure to timely request a reconsideration by the Kansas State Board of Nursing may preclude further judicial review. The petition for reconsideration shall be mailed or personally delivered to: Mary Blubaugh, Executive Director, Board of Nursing, Landon State Office Building, Suite 1051, 900 SW Jackson, Topeka, KS 66612-1230.

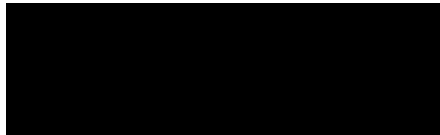
Pursuant to K.S.A. 77-531, if the final order is served by mail, three days are added to the time limits set out above.

Pursuant to K.S.A. 77-530, if a request for reconsideration is not requested in the time and manner stated above, this initial order shall become effective as a final order 30 days after service.

CERTIFICATE OF SERVICE

On the 23rd day of May, 2012, I mailed a copy of this /FINAL ORDER AND CONSENT AGREEMENT TO SURRENDER AND REVOKE LICENSE to:

Mitchell D. Lee
3549 De. Sienna
Wichita, Kansas 67203



Alma A. Heckler, #11555
Assistant Attorney General