

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

IN THE MATTER)
)
OF) Case No: 95-0239-2
)
DIANE CASTLE)
LICENSE NO. 23-024010-011)

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, Diane Castle, and with counsel, Dale E. Pike, Bauer, Bauer, Pike & Johnson, Great Bend, Kansas, and respectfully request that the Board, or its designee, approve this Consent Agreement and Final Order as the resolution in this case. This Consent Agreement and Final Order affects the Respondent's license to practice as a licensed practical nurse (L.P.N.) in the State of 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. The parties agree as follows:

1. Both parties to this Agreement acknowledge that the Board received information and conducted an investigation into whether Respondent violated the Kansas Nurse Practice Act by diverting medication.

2. Respondent, with advice of counsel, acknowledges and understands that: 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. Respondent, through her counsel, would have the opportunity to cross-examine Petitioner's witnesses and 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. Respondent would have 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, with the advice of counsel, 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 acknowledges the content of paragraph 1, above, and the allegations in the Petition does not admit, but will not contest the allegations in paragraph 1 above and as alleged in the Petition. Respondent, with the advice of counsel, understands that by not contesting the allegation, the Board may consider and shall find a violation of the Kansas Nurse Practice Act. Upon a finding of a violation of the Act, the Board, or its designee, may take, and will take, action against the Respondent's L.P.N. license.

4. Respondent agrees that the recitations set forth in the Final Order section of this document constitute her agreement to resolve this matter and acknowledges such as the Board's order in this matter.

5. 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.

6. The parties to this Agreement and Order further agree that if any changes are made as stated in this Agreement, Respondent and her counsel shall receive notice of a hearing and will be provided sufficient time to prepare for the hearing in compliance with 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.

7. The Respondent has her counsel are aware of the factual and documentary information relating to the alleged violation.

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 23-024010-011, with an expiration date of January 31, 1997.

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

3. The Board's Investigative Committee found there were reasonable grounds to believe Respondent violated the Kansas Nurse Practice Act and referred the case for disciplinary action.

4. During the first part of June, 1995, while licensed, practicing and employed as a licensed practical nurse in the State of Kansas as an L.P.N., Respondent diverted at least two Fioricet tablets from a patient or the nursing home the patient was residing.

5. Respondent's conduct in inaccurately diverting the medication constitutes a violation of the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., specifically K.S.A. 65-1120 (a)(6) guilty of unprofessional conduct as defined by K.A.R. 60-3-110(i).

6. Respondent, with the advice of counsel, does not admit, but does not contest the allegation.

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 represented by counsel. Respondent, with the advice of counsel, and by her signature on this document, has knowingly and intelligently waived her rights as previously stated in the Agreement section of this document.

3. Respondent, with the advice of counsel, does not admit, but does not contest, the allegation she violated the Kansas Nurse Practice Act. Based on the statements in paragraph 1 of the Agreement section of this document, and paragraphs 3,4,5,&6 of the Findings of Fact, Respondent has violated the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., specifically K.S.A. 65-1120(a)(6), unprofessional conduct, as defined by K.A.R. 60-3-110(i), diverting drugs, supplies or property a patient or agency.

4. 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 shall be taken against the Respondent:

1. Respondent is hereby publicly censured.
2. Respondent shall contact Ms. Etta Williams or Ms. Kristin Piper at the Kansas Nurse Assistance Program, (KNAP), 6005 Martway, Suite 100, Mission, Kansas 66202, (913) 236-7575, within fourteen (14) days of service of this order upon her regarding coordination or scheduling of an evaluation of the Respondent by an individual who is licensed or certified in Kansas to conduct chemical or alcohol dependency evaluations. If the evaluation determines that the Respondent is in need of treatment, the Respondent shall enroll and participate in KNAP, and follow all recommendations for treatment. If the evaluation determines that the Respondent is not in need of treatment, then there is no

requirement for participation in KNAP. Should the Respondent be required to enroll and participate in KNAP, but fail to do so, then this matter can be rescheduled for further disposition upon motion of either party.

3. Respondent shall pay thirty-five (\$35.00) dollars to the Board of Nursing for payment of costs of these proceedings. Said payment shall be made by money order or cashier's check, payable to the Board of Nursing, which shall be provided to the Board at the same time this Agreement and Order are returned to the Board.

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

Final Order:

Diane Castle
Diane Castle
Respondent

6-11-96
DATE

Dale E. Pike
Dale E. Pike
Attorney for the Respondent

6-13-96
DATE

Mark S. Braun
MARK S. BRAUN
Assistant Attorney General
Board Disciplinary Counsel

6-17-96
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 _____ day of _____, 1996

6-17-96
This fax page received as Page 6
along with rest of the ^{original} Initial
order. This page has D. Castle's
& D. Pike's original signatures MSB

IT IS SO ORDERED.

Dated this 17th day of June, 1996



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 21st day of June, 1996, to:

Dale E. Pike
Bauer, Pike, Pike, and Johnson
1310 Kansas Avenue
P.O. Drawer 1349
Great Bend, Kansas 67530

Diane Castle
203 S. Elk
Oberlin, Kansas 67749

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