

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

IN THE MATTER OF:

DENISE EAGLE
LICENSE NO. 23-026146-061

)
)
) Case No: 96-0327-3
)
)
)

INITIAL ORDER

Now on this 27th day of March, 1997, the above-captioned matter comes on for Hearing before Terry E. Beck, the Board's designated Hearing Officer, on the Petition filed with the Board. The Petitioner appears by and through Assistant Attorney General Mark S. Braun, Disciplinary Counsel for the Board. The Respondent, Denise Eagle, appears in person and without counsel.

The Hearing Officer inquires of the Respondent whether she received the Petition and Notice of Hearing and whether she understands the nature of the allegations contained in the Petition. Respondent states that she received and understands the allegations. Respondent inquires of the Respondent whether she has any objection to the Board's jurisdiction in this matter. Respondent states she has no objection.

The Hearing Officer advises the Respondent that she has the right to be represented by an attorney in these proceedings, if she chooses to obtain one. Respondent acknowledges this right, but wishes to proceed without counsel.

The Hearing Officer advises the Respondent she may either admit or deny the allegations in the Petition. If Respondent denies the allegations, the matter will proceed to hearing in which the Petitioner will have to prove, through witnesses and evidence, that the Respondent committed the act(s). The Respondent will have the opportunity to cross-examine the Petitioner's witnesses, as well as the opportunity to present witnesses and evidence on her own behalf. If Respondent admits the allegations, there will be no hearing. Based on the admission(s), the Hearing Officer will make a finding that the Respondent committed the act(s) complained of and that Respondent has violated the Kansas Nurse Practice Act as specified by the Petitioner. The matter will then proceed to disposition to determine and impose the appropriate discipline for the violation.

The Hearing Officer inquires of the Respondent if she understands her options regarding the allegations. Respondent states that she understands her options.

The hearing asks the Respondent if she admits or denies the allegations of violation as stated in the Petition. Respondent admits to the violations alleged in the Petition.

The Hearing Officer accepts the admission and finds that the Respondent has violated the Kansas Nurse Practice Act as stated in

the Petition. Based upon the Respondent's admissions to the violations, the Hearing Officer makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Respondent was issued a license to practice nursing in the State of Kansas as a registered professional nurse (R.N.), license number 13-065259-061, which expires June 30, 1997.

2. The Notice of Proceedings in this matter were sent to the Respondent at her last address known to the Board by first class mail on March 13, 1997.

3. Respondent has been advised of her right to counsel and voluntarily waived that right.

4. Respondent, after explanation of her options, admitted to violating the Kansas Nurse Practice Act by having been convicted of a felony, possession of amphetamine, a Level IV non-person felony, and not being sufficiently rehabilitated to warrant the public trust.

5. Respondent was found guilty in McPherson County District Court Case No. 96CR4770, as indicated in Petitioner's Exhibit No. 1, which includes certified copies of two journal entries relating to the preliminary hearing and plea and a Kansas Sentencing Guidelines Journal Entry of Judgment in that case.

6. Investigation by the Board and through Petitioner's Exhibit No. 1, indicate that the Respondent has been placed on probation for a period of three years.

7. Respondent has violated the Kansas Nurse Practice Act, for

which disciplinary action may be taken by the Board, or its designated hearing officer against the license or licensee.

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 Respondent has been advised of her right to counsel and has knowingly and voluntarily waived that right.

3. The Respondent has been properly served with the Petition and Notice of Proceedings in this matter pursuant to the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

4. The Board, and by designation the Hearing Officer, have the authority, after a finding of a violation of the Nurse Practice Act, to impose any of the disciplinary sanctions identified in K.S.A. 65-1120 and K.S.A. 74-1110 against the Respondent or the Respondent's license to practice nursing in the State of Kansas.

5. 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.

6. Based on Respondent's admissions, Petitioner's Exhibit No. 1, and the findings of fact, as stated in the Findings of Fact, Respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., as stated in the Petition, specifically K.S.A. 65-1120(a)(2), having been convicted of a felony (possession of amphetamine, a Level IV non-person felony), and not having been

sufficiently rehabilitated to warrant the public trust.

As to Disposition, the Petitioner states there is some confusion regarding the Respondent's previous criminal history. Further, there is no current information regarding the Respondent to base the disposition in this matter. Therefore, IT IS ORDERED THAT this matter will be continued to April 30, 1997 at 9:00 a.m., for disposition.

Now on this 30th day of April, 1997, the above-captioned matter comes on for Disposition Hearing before Terry E. Beck, the Board's designated Hearing Officer, after a finding that the Respondent violated the Kansas Nurse Practice Act. The Petitioner appears by and through Assistant Attorney General Mark S. Braun, Disciplinary Counsel for the Board. The Respondent, Denise Eagle, appears in person by telephone and without counsel.

The Petitioner informs the Hearing Officer that on April 15, 1996, he received a handwritten letter from the Respondent regarding disposition. Enclosed with the letter, were: a letter from Ronda Sigmon, the Respondent's immediate supervisor and director of nursing at Highland Manor, McPherson, Kansas; and a copy of a Forensic Evaluation, Alcohol/Drug Assessment by Judy Weber. Based upon the letters from, and telephone conversations with, those individuals, as well as a telephone conversation with Barb Lemmons, the Respondent's probation officer, the Petitioner and Respondent have reached an agreement regarding disposition they wish to present to the Hearing Officer as the agreed disposition.

The Petitioner presents the agreement, which after some clarification for the Respondent, is agreed to by both parties as the disposition in this case.

ORDER

Based on the above findings of fact and conclusions of law, the agreement of the parties, and the Respondent's request, IT IS THEREFORE ORDERED pursuant to the disciplinary remedies available under K.S.A. 65-1120 and K.S.A. 74-1110, that Respondent's license to practice as a registered professional nurse, (R.N.), is hereby **suspended** from the practice of nursing until June 30, 1997, or if she submits a renewal or reinstatement application, until June 30, 1999. The suspensions shall be stayed, allowing the Respondent to continue to practice nursing in the state under certain conditions.

In order to maintain the stay of the suspension, the Respondent shall meet the following conditions:

1. Respondent shall cause any and all nursing employers to submit quarterly reports to the Board of Nursing's Practice Specialist. The Reports are to be prepared by the Respondent's closest nursing supervisor who is an R.N., but who is not a nurse consultant. The reports shall include information regarding the Respondent's nursing practice including: attendance, appearance, documentation, and patient care. The first report shall be submitted to the Board's Practice Specialist no later than July 20, 1997: Subsequent reports shall be due: October 20, 1997; January 20, 1998; April 20, 1998; July 20, 1998; October 20, 1998; January 20, 1999; and April 20, 1999.

2. Respondent shall notify the Board's practice specialist in writing within ten (10) days of this order of any and all nursing employment and the name of the employing entity and the name, title, address and telephone number of any and all individuals described above who will be submitting employer reports pursuant to the order.

3. Respondent shall notify the Board's practice specialist in writing within ten (10) days of any changes or additions in nursing employment, the name of the employing entity, and the name, title, address and telephone number of any replacement or additional individuals described above who will be submitting employer reports pursuant to the order.

4. Respondent's probation officer shall provide the Board's Practice Specialist quarterly reports regarding the Respondent's status on probation. The reports shall continue throughout Respondent's probation and are due on the same quarterly schedule as the employer reports identified in Paragraph 1 above.

5. Respondent is to successfully complete her probation, without any probation violations.

6. Respondent shall continue to attend alcohol/drug counselling until released because of successful completion of that counselling. Should Respondent be terminated from the counselling, the counsellor shall submit a letter to the Board's Practice Specialist indicating such termination of counselling is appropriate.


7. Respondent's alcohol/drug counsellor officer shall provide the Board's Practice Specialist quarterly reports regarding the Respondent's status in counselling. The reports shall continue throughout Respondent's counselling and are due on the same quarterly schedule as the employer reports identified in Paragraph 1 above. Respondent shall provide any and all releases necessary in order for the reports to be provided to the Board.

8. Any unsatisfactory report from any of the reporters shall provide grounds upon which the Petitioner may seek an end to the stay and implementation of the suspension.

9. Respondent shall return her license card to the Board and be reissued on with an "S" in the status code portion of the card throughout the period of the suspension and stay;


10. Respondent is hereby assessed the costs of these proceedings in the amount of thirty-five (\$35.00) dollars by money order or cashier's check payable to the board of nursing, no later than July 30, 1997.

IT IS SO ORDERED.



Terry E. Beck
Hearing Officer

Prepared and Submitted by:



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

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.

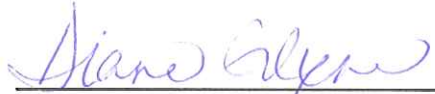
CERTIFICATE OF SERVICE

This is to certify that on the 17th day of May, 1997, I deposited a true and correct copy of the Initial Order in the United States Mail, first class mail, postage prepaid to the following:

Denise Eagle
1201 S. Ash
McPherson, Kansas 67460

and by hand delivery to:

Mark S. Braun
Assistant Attorney General
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