

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

**IN THE MATTER OF
VALORIE LOCKHART
License No. 23-28246-061**

Case No: 13-294-6

13B No 174
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INITIAL AGREED ORDER TO SURRENDER AND REVOKE LICENSE

NOW ON THIS 27th day of November 2013, the Kansas State Board of Nursing, represented by Assistant Attorney General, Alma A. Heckler, and the Respondent, Valorie Lockhart, by and through her counsel, Bryan K. Joy, 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. Respondent is licensed to practice nursing in Kansas through 6/30/2015. The Kansas State Board of Nursing (KSBN) has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent's address of record is 629 N. First Street, Burlington, Kansas 66839.
3. The Respondent understands that pursuant to K.S.A. 77-515, respondent may be represented at respondent's expense by, an attorney during these proceedings.
4. Respondent acknowledges that this agreement is an open record pursuant to the Kansas Open Records Act, K.S.A 45-215 et seq., and may be published or disseminated notwithstanding any state or federal law otherwise restricting public access to, or dissemination of, any personal or health care information, or any information or records of substance abuse evaluation and/or treatment contained herein.

5. After an investigation, the Board's investigative committee found reasonable grounds to believe that the respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1120, and referred this matter for further proceedings.

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. A petition was filed 6/20/2013 to take disciplinary action against the licensee's license.

a. Respondent described herself as self employed as a licensed practical nurse, with a personal business called Caring Heart Home Based Services. She opened the business in 2002 and it is currently open. She told the Board investigator that she is paid by the family of the "client". She uses a sliding scale to charge for her services. The charge depends on the level of care and is normally \$12.00 to \$18.00 an hour. She also bills for bandages and mileage. Respondent reported she is an "independent" private duty nurse and does not have any completed CMS-485 Home Health Certification and Plan of Care Forms with a physician's home health plan of care, home health certification and recertification requirements for any of her clients.

b. Respondent stated during an interview with the Board that she did take orders from a doctor and gave the following example: she stated she had one patient whose blood pressure had to be adjusted and she called his doctor and received verbal instructions to adjust his medication. Respondent did not report working at the direction of a physician or registered nurse.

c. Respondent reported during her interview with the Board she had a patient who was prescribed Tylenol 3 for ten (10) days after a fall.

d. Respondent reported she worked with a client E.H. for almost five (5) years before the patient died in January 2011. E.H. was prescribed Lisinopril, a controlled substance. Respondent reported she had been handling all of E.H.'s ordering of refills and medication, as well as setting up her medication box. Respondent monitored her to make sure the medications were taken properly.

e. Respondent's husband was prescribed Lisinopril. His prescription was last filled in 2009. Respondent contacted a pharmacy in 2013 requesting a refill of his prescription. When asked how he had filled his prescription since 2009, Respondent reported she was given the medication by the family of a deceased patient. The family wanted her to have the medication so Respondent's husband could save the cost of the prescription.

f. Kansas Nurse Practice Act, K.S.A. 65-1113(d)(2) describes the practice of nursing "as a licensed practical nurse means the performance for compensation or gratuitously, except as permitted by K.S.A. 65-1124, and any amendments thereto, of tasks and responsibilities defined in part (1) of this subsection (d) which tasks and responsibilities are based on acceptable education preparation within the framework of supportive and restorative care under the direction of a registered professional nurse, a person licensed to practice medicine and surgery or a person licensed to practice dentistry". (Emphasis added.) Respondent practiced outside the scope as defined by statute.

Respondent admits to the facts as stated in the petition.

CONCLUSIONS OF LAW

8. 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.

9. Respondent has violated the Kansas Nurse Practice Act as follows:
 - (a) K.S.A. 65-1120(a)(6), unprofessional conduct as defined by K.A.R. 60-3-110(a), performing acts beyond the authorized scope of the level of nursing for which the individual is licensed;
 - (b) K.S.A. 65-1120(a)(6), unprofessional conduct as defined by K.A.R. 60-3-110(o), exploitation, which shall be defined as misappropriating a patient's property or taking unfair advantage of a patient's physical or financial resources for the licensee's or another individual's personal or financial advantage...;
 - (c) K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n);

POLICY STATEMENT

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

DISPOSITION

11. Based upon this Initial Agreed Order to Surrender and Revoke (Agreement), the parties agree that Respondent is surrendering licensee's license to practice nursing in the state of Kansas.
12. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that Respondent's license to practice nursing in Kansas is immediately revoked. Licensee shall not practice nursing in the state of Kansas.
13. Upon signing this agreement and returning it to the Board, licensee shall return licensee's license card with the agreement.
14. The Board will report this surrender and revocation to data banks, other entities, and in its newsletter. This is a disciplinary action on Respondent'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 Initial Agreed Order to Surrender and Revoke is the date shown on the certificate of service.


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

16. 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.

17. By their signatures, the parties hereby acknowledge this agreement.

IN WITNESS WHEREOF, the parties hereto execute this INITIAL AGREED ORDER TO SURRENDER AND REVOKE LICENSE.

IT IS SO ORDERED.




Valorie Lockhart
Respondent
629 N. First Street
Burlington, Kansas 66839

Valorie Lockhart must sign before a Notary Public.




NOTARY PUBLIC - State of Kansas
SANDRA L. STEPHENS
My Appt. Expires 7/2/14





Bryan K. Joy, #10966
Counsel for Respondent
Joy Law Office, PA
512 Neosho, P.O. Box 209
Burlington, Kansas 66839



Alma A. Hecklef, #11555
Assistant Attorney General
Kansas State Board of Nursing

Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612



Sandra Sharon, Presiding Officer

Pursuant to K.S.A. 77-527, either party may request a review of this initial 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 initial 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 initial 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 4th day of December, 2013, I mailed a copy of this INITIAL AGREED ORDER TO SURRENDER AND REVOKE LICENSE to:

Valorie Lockhart
629 N. First Street
Burlington, Kansas 66839

Bryan K. Joy
Joy Law Office, PA
512 Neosho, P.O. Box 209
Burlington, Kansas 66839



Alma A. Heckler, #11555
Assistant Attorney General