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APR - 7 2009

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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
JASON S. STAFFORD
License No. 23-029933-011

Case No. 07-110-8
OAH No. 09BN0080

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 8th day of April, 2009, the Kansas State Board of Nursing, represented by Assistant Attorney General, Mark A. Knight, and the Respondent, Jason S. Stafford, represented by Carol R. Bonebrake and Jennifer Conkling Bazin, 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

1. Respondent's license to practice nursing in Kansas lapsed on 1/31/2007. Respondent submitted a reinstatement application. A summary denial of Respondent's license to practice nursing in Kansas was entered. The Respondent submitted a timely appeal. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 2110 SE California Avenue, Topeka, KS 66605.
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. 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.
5. 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.

6. (a) On or about 9/16/2003, Respondent was convicted of Fleeing or Attempting to Elude Police Officer, a misdemeanor, in the District Court of Shawnee County, Kansas, case number 02TR7328.

(b) On or about 9/16/2003, Respondent was convicted of Driving While Suspended, a misdemeanor, in the District Court of Shawnee County, Kansas, case number 02TR7328.

(c) On or about 9/23/2003, Respondent was convicted of Driving While Suspended, a misdemeanor, in the District Court of Jefferson County, Kansas, case number 03TR74.

(d) On or about 10/17/2003, Respondent was convicted of Possession of Drug Paraphernalia, a misdemeanor, in the District Court of Pottawatomie County, Kansas, case number 03CR44.

(e) On or about 10/17/2003, Respondent was convicted of Theft of Prescription Drugs, a misdemeanor, in the District Court of Pottawatomie County, Kansas, case number 03CR44.

(f) On or about 11/3/2003, a petition was filed in KSBN case number 03-108-9, alleging Respondent committed violations of the Kansas Nurse Practice Act.

(g) On or about 1/22/2004, a discipline order was entered against Respondent's nursing license in KSBN case number 03-108-9. The discipline order was titled Consent Agreement to Suspend License with a Stay and Final Order.

(h) The Respondent was found to have violated K.S.A. 65-1120(a)(6), to be guilty of unprofessional conduct, by diverting drugs (K.A.R. 60-3-110(n); K.S.A. 65-1120(a)(4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol; and K.S.A. 65-1120(a)(3)(e)(1) professional incompetency do to one or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence. The violations were based on the following facts:

"Respondent was employed by a staffing agency and was working at St. Marys Manor, St. Marys, KS. On or about 2/14 to 2/15/03 on the morning shift other staff noticed that the respondent was acting strangely and seemed dazed. That morning several residents mentioned to other staff that they had not received some of their medications the night before. The medical records showed that some of the medications were not documented as given to the residents. A staff person noticed that respondent had gone to his car, and she saw him injecting himself in the back of the hand with a syringe. He admitted to her that he was injecting Dilaudid. The police were called and he was arrested with needles and syringes, suppositories and pills in his car. He was charged with Possession of drug paraphernalia and theft of prescription drugs from St. Marys Manor, Pottawatomie County Case 03 CR 44. On Oct. 17, 2003 respondent pled no contest to the theft charge."

(i) Pursuant to the 03-108-9 order, Respondent's license to practice nursing was suspended and the suspension was stayed. Pursuant to the order Respondent was required to participate in and complete the KNAP program. KNAP being the impaired provider program of the KSBN.

(j) On or about 3/3/2004, Respondent was convicted of Driving Under the Influence, a misdemeanor, in the District Court of Franklin County, Kansas, case number 02CR496.

(k) On or about 3/3/2004, Respondent was convicted of Possession of Depressants, a misdemeanor, in the District Court of Franklin County, Kansas, case number 02CR496.

(l) On or about 10/21/2004, a Petition for Emergency Proceeding to Lift Stay of Suspension Until Found Safe to Practice By KNAP, was filed in KSBN case number 03-108-9. The Petition alleged Respondent was non-compliant with KNAP by testing positive for morphine on 9/16/2004 and by violating KNAP key restrictions.

(m) On or about 12/3/2004, a petition was filed in KSBN case number 04-678-8, alleging Respondent committed violations of the Kansas Nurse Practice Act. The Petition alleged that on 9/16/2004, Respondent diverted morphine and Hydrocodone from patients while working at Topeka Community Health Care Center and that Respondent tested positive for alcohol on 10/12/2004.

(n) On or about 12/8/2004, a hearing was held in on the Emergency Petition in KSBN case number 03-108-9 and on the Petition in KSBN case number 04-678-8. During the proceedings Respondent admitted to the allegations in both petitions. The Hearing Officer ordered the stay of suspension lifted and found Respondent committed the following violations of the Kansas Nurse Practice Act:

"In Case 03-108-9 the respondent has violated: 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; and K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (s) failing to complete the requirements of the impaired provider program of the board.

In Case 04-678-8 the respondent has violated: K.S.A. 65-1120(a)(6), to be guilty of unprofessional conduct, by diverting drugs (K.A.R. 60-3-110(n); K.S.A. 65 1120(a)(4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol; K.S.A. 65-1120(a)(3)(e)(1) professional incompetency do to one or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence."

(o) On or about 1/18/2005, a KSBN order was entered which stayed the suspension of Respondent's license to practice nursing and allowed Respondent to again practice nursing in the state of Kansas.

(p) On or about 8/4/2005, Respondent was convicted of Driving While Suspended, a misdemeanor, in the Municipal Court of Topeka, Kansas, case number CR-2003-0003983.

(q) On or about 8/4/2005, Respondent was convicted of Theft of Property, a misdemeanor, in the Municipal Court of Topeka, Kansas, case number CR-2004-0033743.

(r) On or about 9/1/2005, Respondent was declared by the State of Kansas to be a Habitual Violator under K.S.A. 8-285.

(s) On or about 1/22/2007, Respondent was working as Charge nurse at Countryside Health Center, Topeka, KS. Countryside staff discovered that a patient's Tylenol #3 was missing and had been replaced with regular Tylenol. Respondent was questioned about the missing Tylenol #3 by Countryside staff and admitted to switching it with regular Tylenol. Tylenol #3 is a narcotic medication.

(t) On or about 1/23/2007, KNAP issued a letter to Respondent which states Respondent admitted to KNAP staff that Respondent diverted medications from his employer. Respondent was directed by KNAP to seek an evaluation and report the results to KNAP. Further, Respondent was directed by KNAP to not work as a nurse until KNAP determined Respondent was safe to practice.

(u) On or about 1/24/2007, KSBN case number 07-110-8 was opened to investigate the incident of 1/22/2007 regarding the missing Tylenol #3.

(v) On or about 1/31/2007, Respondent's license to practice nursing in the state of Kansas lapsed.

(w) On or about 2/27/2007, Respondent was notified by KNAP that Respondent could not be monitored in the KNAP program without a current nursing license. Respondent did not complete the KNAP program.

(x) On or about 3/17/2007, Respondent entered an outpatient treatment program at Valeo Recovery Center. On or about 10/24/2007, Respondent successfully completed the outpatient treatment program at Valeo Recovery Center. The Valeo documentation provides a discharge diagnosis of Opiod dependence for Respondent.

(y) On or about 7/15/2008, Respondent's application for reinstatement of his license to practice nursing was received by the KSBN.

(z) Documentation from Valeo Recovery Center shows that Respondent has participated in a treatment program through 3/15/2009.

7. The above incidents are violations of the nurse practice act. The Respondent agrees that the board is prepared to prove that respondent has violated: 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; K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(s), failing to complete the requirements of the impaired provider program of the board; K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(n), diverting drugs, supplies, or property of any

patient or agency; K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

8. Respondent has the right to a hearing with evidence and witnesses and to seek review of the findings from that hearing in accordance with the Kansas Administrative Procedure Act and the Act for Judicial Review and Civil Enforcement of agency actions. Respondent is waiving those rights and voluntarily entering into this agreement instead of proceeding to such a hearing.

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 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 K.A.R. 60-3-110(s), failing to complete the requirements of the impaired provider program of the board.

Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(n), diverting drugs, supplies, or property of any patient or agency.

Count 4: K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

POLICY STATEMENT

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

DISPOSITION

12. By entering into this Consent Agreement and consenting to the entry of the Final Order, both parties waive their right to full administrative proceedings pursuant to K.S.A. 65-1120 and K.S.A.77-501 et seq. and to judicial review.

13. Upon the parties entering into this Consent Agreement and with the respondent having met all statutory requirements for reinstatement of respondent's Kansas Nursing license, the respondent's application for reinstatement of respondent's Kansas Nursing license will be granted.

14. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that this Consent Agreement will continue through any renewal periods of respondent's nursing license until respondent completes each of the conditions and requirements of this agreement. Further, the parties agree that in the event of a lapse of Respondent's nursing license, reinstatement of Respondent's nursing license shall be contingent upon this Consent Agreement and Final Order remaining in effect until Respondent completes each of the conditions and requirements of this agreement.

15. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the Respondent's license to practice nursing in Kansas is immediately suspended. The suspension will be stayed as long as the requirements and conditions of this agreement are met.

16. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the Respondent's license to practice nursing in Kansas is immediately limited. The limitations placed on the license and described below will remain in place until the requirements and conditions of this agreement are met or until the requirements and conditions of this agreement call for the modification of the limitations.

17. The Kansas State Board of Nursing will not take additional disciplinary action against respondent's nursing license for the violations stated above as long as respondent completes each of the following conditions and requirements:

(a) **Respondent shall receive a license verification. The license verification will show the license to be Suspended with a Stay of Suspension and Limited.**

(b) **Respondent will participate in and complete the reasonable recommendations and requirements of the Kansas Nurses Assistance Program (KNAP);** sign releases of information necessary for KNAP to evaluate and monitor respondent and for KNAP to report information to the board. Respondent will be deemed to have completed the KNAP program when KNAP issues written notification that respondent has completed the program. Respondent must enroll in the KNAP program within thirty (30) days of entering this agreement. Noncompliance with KNAP is a violation of this agreement.

(c) **Respondent must submit to random drug screens as determined or selected by the Board or by KNAP.** The costs of the drug screens will be paid by the respondent. Respondent agrees that a Positive Drug Screen is a violation of this agreement.

(d) **Respondent shall not practice without onsite supervision by a qualified nurse, for a period of one year from the date of nursing employment.** The parties agree that this provision prohibits the Respondent from practicing nursing unless the supervising nurse is present within the same facility as the Respondent and the supervising nurse is available for periodic inspection of Respondent's nursing tasks.

(e) **Respondent shall immediately notify the Legal Division of any use of alcohol, if prohibited by KNAP, or controlled substances, or any violation of this Consent Agreement and Final Order.**

(f) **The respondent shall immediately inform all employers and prospective employers of this Consent Agreement and the Final Order.**

(g) Respondent shall send a money order for \$70 to the Board upon entering into this agreement to pay the cost of this action.

(h) Respondent shall not violate the Kansas Nurse Practice Act during the duration of this agreement.

(i) Respondent shall not violate the laws of the United States, of State, or of any political subdivision of any State during the term of this agreement. Traffic infractions shall not be considered violations of the law.

(j) Respondent will Submit Reports from the Respondent's employer to the attention of the Legal Division, Kansas State Board of Nursing, Landon State Office Building, 900 S.W. Jackson, Suite 1051, Topeka, Kansas 66612-1230 on the following schedule:

Prior to Respondent securing employment that utilizes his nursing license, Respondent is to mail to the Kansas State Board of Nursing a statement indicating that Respondent has not yet secured employment which utilizes Respondent's nursing license. This statement is due by the 10th day of each month beginning the next month after signing this consent agreement.

Once Respondent is employed in a position that utilizes his nursing license, or if Respondent is currently employed in a position that utilizes his nursing license, a nursing performance report is due by the 10th day of every third Month until Respondent has caused the submission of four (4) separate nursing performance reports. The report shall be prepared and signed by Respondent's immediate supervisor or by an R.N. who evaluates Respondent's performance on a regular basis and be based on the following guidelines:

- (1) Incorporation of information on facility letterhead stationary is preferred.
- (2) Letter format is acceptable, with the date of the report identified.
- (3) Evaluator's name, telephone number, address, license number and nursing credentials.
- (4) Respondent's name, address, telephone number, license number.
- (5) A short explanation of the Respondent's work performance in the following areas:
 - (a) Standards met regarding facility policies and procedures.

- (b) Compliance with the Kansas Nurse Practice Act.
- (c) Supervisor evaluations.
- (d) Overall appropriateness.
- (e) Interactions with patients.
- (f) Interactions with staff and administration.

Respondent may choose to use a Nursing Performance Report Form which can be obtained from the KSBN website. (www.ksbn.org)

(k) **Respondent agrees to notify the Legal Division of any changes in address and phone number as well as all employment terminations or employer changes or additions. All such notifications shall be made in writing within fourteen (14) days of such a change.**

18. Respondent acknowledges and agrees that Respondent is responsible for the costs related to satisfying the conditions and requirements of this Consent Agreement. Respondent further acknowledges and agrees that to provide the Board with false information regarding compliance with this Consent Agreement is a violation of this Consent Agreement.

19. If Respondent does not meet these conditions and requirements, the Kansas State Board of Nursing may request additional sanctions against Respondent's license or application for a license. Respondent would be sent notice of such action and would be entitled to a hearing as to whether Respondent had complied with this Consent Agreement, but Respondent could not contest the violations listed in this agreement.

20. All parties understand that if an action based on failure to meet the conditions and requirements of this Consent Agreement is filed, K.S.A. 77-531 requires the Notice of Hearing to be served upon the Respondent and the Respondent's attorney of record, if any. All parties agree that only serving the Notice of Hearing upon the Respondent will be proper service and it is the Respondent's responsibility to contact his or her attorney, if any, in reference to the action.

21. Respondent acknowledges and agrees that upon a first finding of Respondent not complying with the conditions or requirements of this Consent Agreement, the Stay of

Suspension of Respondent's license to practice nursing in the State of Kansas, shall be lifted for a period of twelve months from the date of said finding. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension.

22. Respondent acknowledges and agrees that upon a second or subsequent finding of Respondent not complying with the conditions or requirements of this Consent Agreement the Stay of Suspension of Respondent's license to practice nursing in the State of Kansas, shall be lifted for a period of twenty-four months from the date of said finding. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension.

23. Respondent acknowledges and agrees that upon the Stay of Suspension being lifted due to a finding of non-compliance with this Consent Agreement, the Suspension will not again be Stayed until the Respondent has, following the prescribed time period of suspension, provided written verification to the Board that Respondent is in compliance with all conditions and requirements of this Consent Agreement. Upon the Respondent providing said written verification the suspension will again be stayed.

24. The Board will inactivate this case file once respondent satisfies this agreement. This agreement does not prohibit the agency from taking disciplinary action against Respondent's license for any additional or cumulative violation of the Kansas Nurse Practice Act committed by the Respondent before or after this agreement is entered into.

25. This agreement is a discipline and must be reported on any future renewal or reinstatement applications. This agreement is a contract entered into by the parties to resolve an investigative case. The original of this agreement shall be placed in the Agency Record. This Agreement is a public record and will be reported to national disciplinary data banks.

26. After successful completion of all of the conditions and requirements of this Consent Agreement by the respondent, the Consent Agreement will be satisfied and the case will be inactivated.

27. By signing this Consent Agreement and Final Order, Respondent acknowledges that Respondent has read and understands the entire document, and agrees to be bound by its terms. This Consent Agreement and Final Order constitute the entire agreement of the parties and may not be modified except in writing and approved by all parties. The effective date of this Consent Agreement and Final Order is the date shown on the certificate of service.

28. 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.

IN WITNESS WHEREOF, the parties hereto execute this CONSENT AGREEMENT AND FINAL ORDER.

IT IS SO ORDERED.



Jason S. Stafford
Respondent
2110 SE California Avenue
Topeka, KS 66605

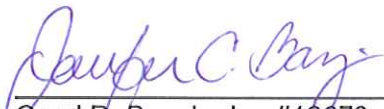
Jason S. Stafford must sign before a Notary Public.



Donna J. Gragson
Notary Public
State of Kansas




My Appt. Expires 9-19-09



Carol R. Bonebrake, #12672
Jennifer Conkling Bazin, #21269
Counsel for Respondent
107 SW 6th St., Suite 210
Topeka, KS 66603



Mark A. Knight, #12183
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612



Sandra L. Sharon, Presiding Officer

CERTIFICATE OF SERVICE

On the 9th day of April, 2009, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Jason S. Stafford
2110 SE California Avenue
Topeka, KS 66605

Carol R. Bonebrake
Jennifer Conkling Bazin
Counsel for Respondent
107 SW 6th St., Suite 210
Topeka, KS 66603



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