

BEFORE THE KANSAS STATE BOARD OF NURSING

Landon State Office Building, 900 S.W. Jackson #1051
Topeka, Kansas 66612-1230

FILED
SEP 1 2010
KSBN

IN THE MATTER OF
KENDREA R. BENDEL
License No. 23-35587-101

Case No. 07-277-1, 09-882-2

2 SEP '10 AM 9:57
FILED - OAH

ORDER TO REMOVE NARCOTIC KEY LIMITATION

Now on this 2nd day of September, 2010 the petitioner, the Board, through counsel Alma A. Heckler, moves to remove the Narcotic Key Restriction from Licensee's license to practice nursing in the state of Kansas. Licensee's license to practice nursing was limited pursuant to a Consent Agreement and Final Order entered in the above captioned case and dated February 2, 2010. Among the limitations is a narcotic key restriction which prohibits the Licensee from passing of narcotics, wasting of narcotics, having access to narcotics or from supervising nurses or others that have access to narcotics. Petitioner has received documentation showing that the Licensee has complied with the narcotic key restriction. Petitioner has been employed as a nurse since at least March 1, 2010. The period of said narcotic key restriction has ended. The presiding officer orders that the limitation of narcotic key restriction on Licensee's license to practice nursing in the state of Kansas is removed. All other conditions and requirements, ordered in the Consent Agreement and Final Order, remain in place.

IT IS SO ORDERED.

[Redacted signature block]

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 block]
Sandra L. Sharon, Presiding Officer

NOTICE OF RIGHT TO APPEAL

The procedures available and time limitations for seeking review or other relief as follows:
Any party, within fifteen (15) days after service of this notice, may file a petition for review with the agency head, send your request to:

Mary Blubaugh, Executive Director, Board of Nursing
Landon State Office Bldg.
Suite 1051, 900 SW. Jackson
Topeka, KS 66612-1230.

The petition for review shall state its basis, pursuant to K.S.A. 77-527.

CERTIFICATE OF SERVICE

On the 7th day of September, 2010, I hereby certify that copies of the above and foregoing ORDER TO REMOVE NARCOTIC KEY LIMITATION, were placed in the U.S. Mail, postage prepaid, addressed to:

Kendrea R. Bensel
3000 Tuttlecreek Blvd Lot # 202
Manhattan, KS 66502



Alma A. Heckler
Assistant Attorney General

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

FILED
FEB - 1 2010
KSBN

IN THE MATTER OF
KENDREA R. BENSEL
License No. 23-35587-101

Case No. 07-277-1, 09-882-2

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 2nd day of February 2010, the Kansas State Board of Nursing, represented by Assistant Attorney General, Brenda J. Clary, and the Respondent, Kendrea R. BenseL, 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 is licensed to practice nursing in Kansas through October 31, 2011. 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 3000 Tuttlecreek Blvd Lot # 202, Manhattan, KS 66502.
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 will be 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 is subject to discipline pursuant to K.S.A. 65-1120, and referred this matter for further proceedings.

6. Respondent stipulates the Board is prepared to prove that Respondent, with cause, was referred to the Kansas Nurse Assistance Program (KNAP), the impaired provider program of the Board, for evaluation and monitoring, and that Respondent entered into an agreement with KNAP but has failed to comply with the requirements of the program.

7. Respondent agrees the above facts would establish the following grounds for discipline: K.S.A. 65-1120(a)(6), unprofessional conduct as defined by K.A.R. 60-3-110(s), failing to complete the requirements of the impaired provider program of the board.

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 Kansas Act for Judicial Review. 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, upon making any of the findings listed in K.S.A. 65-1120(a).

10. Respondent is subject to discipline pursuant to K.S.A. 65-1120(a)(6), for 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. 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. 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.

14. 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 and that the suspension will be stayed as long as the requirements and conditions of this agreement are met.

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 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.

16. 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 return his or her current license card to the Board with this Consent Agreement. Respondent shall receive a license card which shall be issued with an "S" placed in the status code portion of the license card to indicate that the license is suspended with a Stay. The card will have an "L" indicating the limitations on the practice.

(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 have a narcotic key restriction on respondent's license for the first six (6) months after respondent secures employment that requires a nursing license. The narcotic key restriction prohibits the respondent from passing of narcotics, wasting of narcotics or having access to narcotics. The narcotic key restriction also prohibits the respondent from supervising nurses or others that have access to narcotics. After respondent completes six (6) months of employment that requires a nursing license, without violating any terms of this agreement, respondent may request that the narcotic key restriction be removed from respondent's license. Respondent's request shall include written verification from respondent's employer, to the Kansas State Board of Nursing, as to whether the respondent has been employed in a position that requires a nursing license; as to whether the respondent has held that position for at least six (6) months; as to whether the respondent has passed, wasted, had access to, or supervised others that had access to narcotics. With a showing that the narcotic key restriction term of this agreement has been met by the respondent, and the respondent is compliant with all other terms of this agreement, the narcotic key restriction will be removed from respondent's license.

(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 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.

17. 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.

18. 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.

19. 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.

20. Respondent acknowledges and agrees that if any action based on failure to meet the conditions and requirements of this Consent Agreement is filed during the term of this Consent Agreement and Final Order, or within 30 days after the expiration date, the conditions of this Consent Agreement and Final Order shall continue in effect until the Board or a hearing/presiding officer designated pursuant to K.S.A. 77-514 and K.S.A. 77-526, rules on the action.

21. Respondent acknowledges and agrees that upon a first finding that Respondent has failed to comply with any of 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 at least six 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. Respondent acknowledges and agrees that all conditions and requirements of this Consent Agreement remain in effect during the period of suspension.

22. Respondent acknowledges and agrees that upon a second or subsequent finding that Respondent has failed to comply with any of 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 at least one year from the date of said finding. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension. Respondent acknowledges and agrees that all conditions and requirements of this Consent Agreement remain in effect 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 any of the conditions or requirements of 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 and has remained in compliance during the period of suspension, with all conditions and requirements of this Consent Agreement. Upon the Respondent's providing said written verification, the suspension will again be stayed.

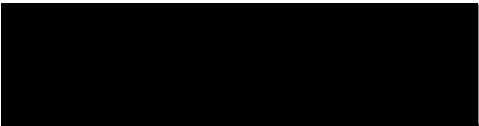
24. The Board will inactivate this case file once respondent satisfies this agreement. This agreement does not prohibit the agency from taking disciplinary action against Respondent's license for any additional or cumulative violation of the Kansas Nurse Practice Act committed by the Respondent before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

25. This agreement is a disciplinary action 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. 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.

27. 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.



Kendrea R. Bense
Respondent
3000 Tuttlecreek Blvd Lot # 202
Manhattan, KS 66502

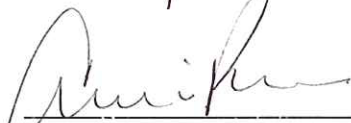


Brenda J. Clary, #18770
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

Kendrea R. Bense must sign before a Notary Public.

State of Kansas
County of Riley

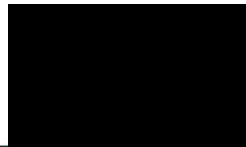
This instrument was acknowledged and signed before me by Kendrea R. Bense on the 27th day of January 2010.


(Notary's signature)

My appointment expires 1/9/11



IT IS SO ORDERED.

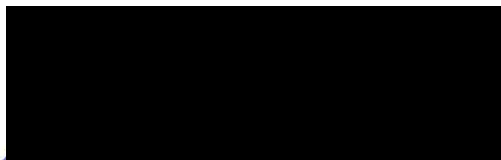


Sandra L. Sharon, Presiding Officer

CERTIFICATE OF SERVICE

On the 3rd day of February, 2010, I mailed a true and correct copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Kendrea R. Bense
3000 Tuttlecreek Blvd Lot # 202
Manhattan, KS 66502



Brenda J. Clary, #18770
Assistant Attorney General
Kansas State Board of Nursing
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