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

FILED

IN THE MATTER OF LEAH BERYL ADUMA

NOV 14 2014

FILED OAH

License No: 23-39479-121 (Reinstatement Pending)

KSBN

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Case No. 13-307-8

INITIAL AGREED ORDER

NOW ON THE 7th day of November, 2014, THE ABOVE MATTER COMES BEFORE THE Kansas State Board of Nursing (Board) pursuant to authority granted to the Board by K.S.A. 65-1120. The Board hereby proposed to find facts and take disciplinary action against the Licensee by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. Respondent, Leah Beryll Aduma, has a pending application for reinstatement to practice nursing in Kansas. The Board has jurisdiction over the Licensee and the subject matter of the action.
2. Applicant's address of record is 9180 West 78th Terrace, Overland Park, Kansas 66204.
3. The case was submitted to the Investigative Committee on the 23rd of January, 2014..
4. Review of the investigation and other information gathered by the Board revealed the following information upon which the action is based.
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 the matter for further proceedings.
6. 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.

7. A petition was filed 29th day of September 2014 to take disciplinary action against the licensee's license.

8. The above incidents are violations of the nurse practice act. The Respondent agrees that the board is prepared to prove that respondent has violated the act and stipulates to the allegations alleged in the Petition.

Respondent has violated the Kansas Nurse Practice Act as follows:

9 Count 1: K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n) in past conduct

Count 2: K.S.A. 65-1120(a)(4) unable to practice with skill and safety due to current abuse of drugs or alcohol.

Count 3: K.S.A. 65 1120(a)(1) unprofessional conduct by fraud or deceit in practicing nursing.

Count 4: K.S.A. 65-1120(a)(6), unprofessional conduct, by inaccurately recording, falsifying or altering documents.

Count 5 K.S.A. 65-1120(a)(3) to have committed an act of professional incompetency as defined in subsection (e) in practicing outside of the scope of license.

Count 6: K.S.A. 65-1120(a)(7), willfully and repeatedly violation provisions of the Kansas Nurse Practice Act by failing to complete the requirements of impaired provider program KAR 60-3-110(s).

10. The facts below are common to all counts:

(a) According to a report, it is alleged that while licensee was an agency nurse at Medical Lodges in Kansas City, Kansas by Newton Medical Center, Newton Kansas, licensee diverted narcotics, drank alcohol while on duty, forced a resident to take meds not ordered for him and verbally abuse another resident.

(b) This incident occurred on or about the 13th day of January, 2013.

- (c) In addition, it is alleged that licensee had multiple convictions for driving under the influence and other offenses and failed to report these offenses to KSBN.
- (d) Licensee was referred to KNAP on the 1st day of February, 2013
- (e) Licensee signed an agreement with KNAP on the 26th day of March, 2013
- (f) Licensee was notified of non compliance with KNAP Agreement on the 7th day of May, 2013, the 10th day of June, 2013 and 12th day of June, 2013 and her case was closed.
- (g) Licensee's license was revoked on the 25th day of November, 2013.
- (h) Licensee has a pending reinstatement application.
- (i) Initial Agreed Order was entered and Licensee was required to enroll in KNAP as part of the agreement and maintain compliance before license would be reinstated.
- (j) Licensee was unable to participate due to her placement in Community Corrections facility and her license reinstatement was denied.
- (k) Licensee has filed a new application for reinstatement.

11. 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 the agreement instead of proceeding to such a hearing.

CONCLUSIONS OF LAW

12. 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.

13. Respondent has violated the Kansas Nurse Practice Act as follows:

Count 1: K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n) in past conduct

Count 2: K.S.A. 65-1120(a)(4) unable to practice with skill and safety due to current abuse of drugs or alcohol.

Count 3: K.S.A. 65 1120(a)(1) unprofessional conduct by fraud or deceit in practicing nursing.

Count 4: K.S.A. 65-1120(a)(6), unprofessional conduct, by inaccurately recording, falsifying or altering documents.

Count 5 K.S.A. 65-1120(a)(3) to have committed an act of professional incompetency as defined in subsection (e) in practicing outside of the scope of license.

Count 6: K.S.A. 65-1120(a)(7), willfully and repeatedly violation provisions of the Kansas Nurse Practice Act by failing to complete the requirements of impaired provider program
KAR 60-3-110(s).

POLICY STATEMENT

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

DISPOSITION

15. By entering into the Initial Agreed Order and consenting to the entry of the Initial 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.

16. Based upon the agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the Initial Agreed Order will continue through any renewal periods of respondent's nursing license until respondent completes each of the conditions and requirements of the 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 the Initial Agreed Order remaining in effect until Respondent completes each of the conditions and requirements of the agreement.

17. Based upon the 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 reinstated with the requested temporary license, at her request, once Respondent is compliant with KNAP for three (3) months and then suspended for a period of six (6) months from the date after her three (3) months of compliance with KNAP and the suspension will be stayed providing the Respondent is in compliance with the terms and conditions of the agreement.

18. 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 will maintain compliance with the Kansas Nurses Assistance Program (KNAP) and follow the the recommendations and requirements. There must be a determination of licensee's safety to practice nursing. Respondent shall sign releases of information necessary for KNAP to evaluate and monitor Respondent and for KNAP to report information to the Board, Attorney General's office, and Office of Administrative Hearings.

(b) 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 the agreement.

(c) Respondent shall immediately notify the Legal Division of any use of alcohol, if prohibited by KNAP, or controlled substances, or any violation of the Initial Agreed Order.

(d) The respondent shall immediately inform all medical or health related employers and prospective employers of the Initial Agreed Order and not work in agency or unsupervised positions.

(e) 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: First report will be due on December 10th, 2014 and the 10th of every third month until eight (8) reports have

been submitted. These reports are performance reports while in a position that requires a nursing license.

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

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

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

(i) The respondent will complete two (2) hours of Continuing Nurses Education (CNE) on the topic of "Kansas Nurse Practices Act." Respondent is to submit the original certificates for proof of the completion of the hours within 90 days of the agreement.

Respondent will complete two (2) hours of Continuing Nurses Education on the issue of patient privacy. Respondent may not use these hours to meet the CNE requirements of any renewal period.

(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.

(k) Per *Vakas v. Kansas State Board of Healing Arts*, 248 Kan. 589 (1991), the factors to be considered in determining whether a license should be reinstated after a disciplinary finding has been made are the following:

- The present moral fitness of the petitioner;
- The demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought the profession;
- The extent of petitioner's rehabilitation;
- The nature and seriousness of the original misconduct;
- The conduct subsequent to discipline;
- The time elapsed since the original discipline;
- The petitioner's character, maturity, and experience at the time of the original revocation;

- The petitioner's present competence in medical skills.

19. Respondent acknowledges and agrees that Respondent is responsible for the costs related to satisfying the conditions and requirements of the Initial Agreed Order. Respondent further acknowledges and agrees that to provide the Board with false information regarding compliance with the Initial Agreed Order is a violation of the Initial Agreed Order.

20. 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 the Initial Agreed Order, but Respondent could not contest the violations listed in the agreement.

21. All parties understand that if an action based on failure to meet the conditions and requirements of the Initial Agreed Order 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 her or her attorney, if any, in reference to the action.

22. Respondent acknowledges and agrees that if any action based on failure to meet the conditions and requirements of the Initial Agreed Order is filed during the term of the Initial Agreed Order, or within 30 days after the expiration date, the conditions of the Initial Agreed 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.

23. Respondent acknowledges and agrees that upon a finding of Respondent not complying with any of the conditions or requirements of the Initial Agreed Order the stay on the Suspension of Respondent's license to practice nursing in the State of Kansas will be removed 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 the Initial Agreed Order remain in effect during the period of suspension.

24. Respondent acknowledges and agrees that the Suspension will be extended due to a finding of non-compliance with any of the conditions or requirements of the Initial Agreed Order, the Suspension will not 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 the Initial Agreed Order. Upon the Respondent providing said written verification the suspension will be stayed.

25. The Board will inactivate the case file once respondent satisfies the agreement. The 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 the agreement is entered into.

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


27. After successful completion of all of the conditions and requirements of the Initial Agreed Order by the respondent, the Initial Agreed Order will be satisfied and the case will be inactivated.

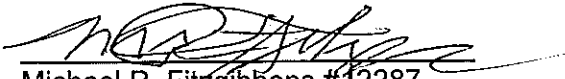
28. By signing the Initial Agreed Order, Respondent acknowledges that Respondent has read and understands the entire document, and agrees to be bound by its terms. The Initial Agreed Order constitute the entire agreement of the parties and may not be modified except in writing and approved by all parties.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

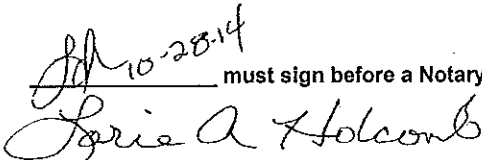
28. The hearing/presiding officer whose signature appears below has been designated pursuant to K.S.A. 77-514 and K.S.A. 77-526 to act on behalf of the Board/agency head and to hear discipline cases on behalf of the Board/agency head and to render either initial orders or final orders, if by agreement of both parties, in those discipline cases.

IN WITNESS WHEREOF, the parties hereto execute the INITIAL AGREED ORDER.


IT IS SO ORDERED.


Respondent
Leah Berryl Aduma
9180 West 78th Terrace
Overland Park, Kansas 66204


Michael R. Fitzgibbons #12287
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612


must sign before a Notary Public.




Sandra Sharon, Presiding Officer

Pursuant to K.S.A. 77-527, either party may request a review of the final 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 the final 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 final 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, the initial order shall become effective as a final order 30 days after service.

CERTIFICATE OF SERVICE

On the 14th day of November, 2014, I mailed a copy of the INITIAL AGREED ORDER:

Leah Berryl Aduma
9180 West 78th Terrace
Overland Park, Kansas 66204



Michael R. Fitzgibbons, #12287
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612