

APR 4 2005

Filed

Board of Nursing

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

Board of Nursing

IN THE MATTER OF

JUDI UTT

LICENSE NO. 24-019779-052

CASE NO. 04-035-7, 00-529-6, 99-603-6**CONSENT AGREEMENT TO SUSPEND LICENSE WITH A STAY AND FINAL ORDER**

NOW ON THIS 30th day of March, 2005, the Kansas State Board of Nursing, represented by Assistant Attorney General, Betty Wright, and the respondent, Judi Utt, enter into the following agreement:

1. Respondent is licensed to practice nursing through 5/31/2006.
2. After an investigation, the Board's investigative committee found reasonable grounds to believe that respondent violated the nurse practice act and referred this matter for further proceedings.
3. Respondent has the right to a hearing with evidence and witnesses to establish evidence of his/her fitness to practice nursing 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 and the Kansas State Board of Nursing are waiving those rights and voluntarily entering into this consent agreement instead of proceeding to such a hearing.

AGREED FINDINGS OF FACT

4. On or about 11/10/1999 respondent was reported to the facility for acting impaired and was unable to draw up insulin. The respondent admitted to her employer on 11/10/1999 that she had taken prescription Soma and Depakote. The respondent refused to submit a UDS and was terminated.
5. Respondent signed a Diversion Agreement 5/31/2001 to participate in and complete the requirements of the Kansas Nurse Assistance Program, KNAP.

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6. On or about 9/15/2000 the facility where the respondent worked was notified that there were medication errors and regarding Hydrocodone, a controlled substance on respondent's shift. The staff report respondent's affect was flat and her speech was slow and slurred. Her behavior was normally described as friendly and animated. Upon their inquiry the respondent admitted that she wasn't feeling well. As to the missing Hydrocodone the licensee admitted to performing a controlled substance count alone at 2200 on 9/14/2000. In addition, a medication cup containing seven (7) Lortab pills was found in the medication cart by nursing staff on 9/15/2000. The licensee had failed to administer these medications to seven (7) different residents on 9/14/2000 and admitted this fact to the DON and ADON. The licensee admitted to being unable to remember much of what occurred during her shift 9/14/2000.

7. The respondent admitted to having taken Fioricet, contains a barbiturate that was a prescription of hers, before she came to work on 9/14/2000 and did not remember any events of that shift.

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8. During approximately October, November, and December of 2003 the respondent used the above facility's computer to access Internet information regarding the purchase of Soma for her own personal use. The respondent used the facility's telephone to order the above drug. The respondent is alleged to have used fraudulent and deceitful means of ordering the drugs involving other staff members in order to have the drugs paid for and delivered to the respondent. The respondent will admit that she accepted a package of Soma for another staff member, and that this action was fraudulent.

9. 

10. [REDACTED]

CONCLUSIONS OF LAW

11. Licensee has violated the following provisions of the Kansas Nurse Practice Act:

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)(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) (3) to have committed an act of professional incompetency as defined in subsection (e); *Professional incompetency defined.* As used in this section, "professional incompetency" means: (1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;

K.S.A. 65-1120(a)(6), to be guilty of unprofessional conduct by failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient; K.A.R. 60-3-110(c)

K.S.A. 65-1120(a)(6), unprofessional conduct by inaccurately recording, falsifying, or altering any record of a patient or agency or of the board; K.A.R. 60-3-110(d).

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

K.S.A. 65-1120 (6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;

K.A.R. 60-3-110 (a) Performing acts beyond the authorized scope of the level of nursing for which the individual is licensed.

POLICY STATEMENT

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

DISPOSITION

13. 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(b) and K.S.A.77-501 *et seq.* and to judicial review.

14. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the current license will be immediately **suspended** but such **suspension shall be stayed. A new card will be issued with an "S."** The respondent

will be allowed to practice under the following conditions:

a. Licensee shall participate in and **complete** the recommendations and requirements of the **Kansas Nurses Assistance Program (KNAP)**; sign releases of information necessary for KNAP to evaluate and monitor licensee and for KNAP to report information to the board.

b. Licensee shall send a **money order for \$70** to the Board upon entering into this agreement.

15. Licensee is responsible for the costs related to satisfying these conditions.

16. If licensee does not meet these requirements, petitioner will file a motion to lift the stay and may request additional sanctions against licensee's license or application for a license. Licensee would be sent notice of such action and would be entitled to a hearing as to whether he/she had complied with this agreement, but he/she could not contest the established violation(s).

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

18. Licensee shall immediately notify the Legal Division of any use of alcohol, or controlled substances, or any violation of this Consent Agreement and Final Order.

19. **The Board will inactivate this case file when KNAP sends a letter stating respondent has successfully completed the KNAP program.** This agreement does not prohibit the agency from taking disciplinary action against licensee's license for any additional or cumulative violation of the Nurse Practice Act committed by the licensee before or after this agreement is entered into.

20. The parties understand and acknowledge that this is a disciplinary action; it will be in the newsletter and on the website. The original of this agreement shall be placed in the Agency

Record and is a public record.

21. By signing this Consent Agreement, respondent acknowledges that licensee has read and understands the entire document, and agrees to be bound by its terms. This Consent Agreement constitutes the entire agreement of the parties and may not be modified except in writing and approved by all parties.


IN CONCLUSION

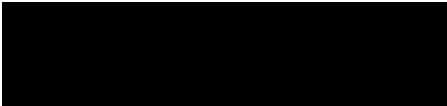
22. This case will be inactivated and a card with no suspension will be issued when:

- a) **KNAP issues a letter of successful completion** of the KNAP program.
- b) cost of **\$70** is paid.


23. Once all of the above are met, the licensee may request that an unencumbered license be issued by sending the request in writing and returning the license card with the "S" to the Board; if all requirements are met a new card will be issued with no restrictions.

IN WITNESS WHEREOF, the parties hereto execute this CONSENT AGREEMENT TO SUSPEND LICENSE WITH A STAY AND FINAL ORDER.


Judi Ut Licensee
Box 44
Dexter, KS 67038


Betty Wright, #14785
Assistant Attorney General
900 SW Jackson, Suite 1051
Topeka, Kansas 66612-1230
(785) 296-7047

IT IS SO ORDERED.


Terry Beck
Hearing Officer

CERTIFICATE OF SERVICE

On the 12th day of April, 2005, I caused a copy of this document to be mailed, postage prepaid, to:

Judi Utt
Box 44
Dexter, KS 67038

KNAP
6405 Metcalf, Ste 403
Cloverleaf Complex Bldg #3
Overland Park, KS 66202



Betty Wright, Assistant Attorney General