

**BEFORE THE KANSAS STATE BOARD OF NURSING  
LANDON STATE OFFICE BUILDING  
900 S.W. JACKSON, ROOM 551-S  
TOPEKA, KANSAS 66612-1230**

**IN THE MATTER OF:** )  
 ) **CASE NO. 94-0656-5**  
 )  
**TERRI S. AVERY** )  
**LICENSE NO. 13-067428-071** )

**INITIAL ORDER**

Now on this 28th day of September, 1995, the above-captioned matter comes on for scheduling docket before Terry E. Beck, the Board's designated Hearing Officer, on the Petition filed with the Board. The Petitioner appears by and through Assistant Attorney General Mark S. Braun, Disciplinary Counsel for the Board. The Respondent, Terri S. Avery, appears in person and without counsel.

The Respondent is informed by the Hearing Officer of her right to counsel. The Respondent states she is aware of that right, but that she wishes to waive that right and appear on her own behalf.

The Hearing Officer inquires if there are any preliminary matters. Petitioner states that there are. Petitioner states that he and the Respondent met prior to the hearing and have worked out an agreement that they wish to submit to the Hearing Officer for

approval. The terms of that agreement are as follows:

1. The Petitioner orally moves to amend the Petition to correct and clarify statements in the original Petition. Those amendments are:

- A. The Notice of Scheduling Docket would confirm the matter for hearing in January 1995 or a later date. The hearing date scheduled in the Notice of Hearing would be the 25th of October, 1995.
- B. The Certificate of Service and the Petition at paragraph 3 incorrectly state that the Respondent's P.O. box number. The correct number is P.O. Box 583.
- C. At paragraph 5 of the Petition, the relapse and diversion of Demerol occurred in April, 1994, after the Respondent was issued her license in Nevada.
- D. Paragraph 5 of the Petition states that the violation occurred while the Respondent was licensed to practice as a licensed practical nurse (L.P.N.). She was, in fact, licensed to practice as a Registered Nurse (R.N.) in Nevada, not an L.P.N.

2. With those amendments made to the Petition, the Respondent will admit or stipulate that the Nevada Board of Nursing took disciplinary action against the Respondent's license to practice as a registered nurse in Nevada when that Board fined the Respondent and ordered her to attend classes. Further, the Respondent admits that she surrendered her license in lieu of further disciplinary action.

3. With the admission to the Nevada action, there will be a finding that the Respondent violated the Kansas Nurse Practice Act as stated in the Petition as amended above.
4. Respondent's license shall be limited in that she shall not administer any controlled substances or mood altering drugs. Further, she shall not carry any keys to medication storage areas.
5. Respondent shall enroll and successfully participate in the impaired provider monitoring program contracted for by the Board of Nursing.
6. Respondent shall cause her employer to submit quarterly reports to the Board's Practice Specialist for a period of one year. Said reports shall be prepared by the Respondent's director of nursing or someone designated by the D.O.N., who is familiar with the Respondent's work. Said quarterly reports shall provide information about the Respondent's work performance, including: attendance; safety; delivery of nursing care; and compliance with the Nurse Practice Act. The first report shall be due on or before January 20, 1996; April 20, 1996; July 20, 1996; and October 20, 1996. If these reports are not satisfactory, the Board may call this cause for review of this disposition.
7. Respondent is hereby assessed costs of this action in the amount of twenty-five dollars (\$25.00). Respondent shall pay that amount by cashier's check or money order, payable to the Board of Nursing, within thirty (30) days of receipt of the Initial Order issued in this case.

The Hearing Officer inquires of the Respondent if she understands the allegations against her. Respondent states that she does understand the allegations. The Hearing Office inquires whether the Respondent has any objections to the jurisdiction of the Board to hear this matter. The Respondent states she has no objection. Respondent adds that while the Notice and Certificate of Service had the wrong post office box number, she did receive the Notice and Petition at her correct address. The Hearing Officer informs the Respondent that she has two options regarding the allegations. She can deny the allegations, in which case the matter would be set for hearing. At such hearing, the Petitioner would have to present witnesses and evidence that the allegations charged in the Petition are true. The Respondent would have the opportunity to present witnesses and evidence that the allegations charged in the Petition are not true. The matter would then be decided by the Hearing Officer. The Hearing Officer informs the Respondent that she may admit the allegations, in which case there would be a finding that the Respondent committed the conduct charged in the Petition and the Hearing Officer would decide what disciplinary action should be entered against the Respondent or her license. The Hearing Officer inquires of the Respondent if she understands her options. Respondent states that she understands her options.

The Hearing Officer inquires of the Respondent if she admits or denies the allegations charged in the Petition with the amendments stated above. Respondent states she admits to the allegations charged in the Petition, with the amendments stated above. The Hearing Officer inquires of the Respondent whether she understands that with her admission, the Hearing Officer will make a finding that she engaged in the conduct charged

in the Petition as amended; that such conduct constitutes a violation of the Kansas Nurse Practice Act; and that disciplinary action will be taken against her or her license. The Respondent states that she understands the consequences of her admission.


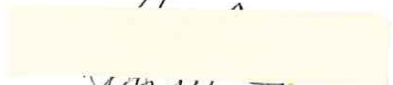
WHEREUPON, the Hearing Officer finds that the Respondent has understands the nature of the allegations; has knowingly and voluntarily waived her right to counsel; has knowingly and voluntarily waived her right to a hearing in this matter; and has knowingly and voluntarily admitted to the conduct charged in the Petition. The Hearing Officer accepts the admission. The Hearing Officer further finds that the Respondent violated the Kansas Nurse Practice Act, specifically K.S.A. 65-1120(a)(8), in that she has had disciplinary action against her license by the licensing authority of another jurisdiction, the State of Nevada, by being fined and ordered to take classes on nursing and the law.

The Hearing further inquires of the Respondent if the disposition as set forth by the Petitioner accurately states the terms as agreed and discussed by the Petitioner and the Respondent. The Respondent states that the terms were accurately stated.


#### **ORDER**

**IT IS THEREFORE ORDERED** that the disposition as agreed upon between the parties will be adopted as the disposition and Initial Order in this case. The Respondent's license is hereby **limited** as stated in paragraphs 1-7 above. Those paragraphs are hereby adopted and incorporated herein.

**IT IS SO ORDERED.**

  
  
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Terry E. Beck  
Hearing Officer

Prepared and Submitted by:

  
Mark S. Braun  
Disciplinary Counsel  
Assistant Attorney General  
Kansas State Board of Nursing  
900 S.W. Jackson Rm 551-S  
Topeka, Kansas 66612-1230  
Telephone No. (913) 296-8401

**NOTICE REGARDING RELIEF FROM THIS ORDER**  
**STATEMENT OF APPEAL RIGHTS**

This is an Initial Order. The parties to whom this Initial Order is issued may file a petition for review with the Agency Head within fifteen (15) days after service of this order. The petition for review must state the specific grounds upon which relief is requested. Unless a later date is stated within the Initial Order, a stay is granted, or the order is reviewed, an Initial Order shall become a final order without further notice or proceedings thirty (30) days after the date of service as indicated by the attached certificate of service.

**CERTIFICATE OF SERVICE**

This is to certify that on the 17<sup>th</sup> day of October, 1995, I deposited a true and correct copy of the Initial Order in the United States Mail, first class mail, postage prepaid to the following:

Terri S. Avery  
P.O. Box No. 583  
Udall, Kansas 67146

and by hand delivery to:

Mark S. Braun  
Assistant Attorney General  
Disciplinary Counsel  
Kansas State Board of Nursing  
900 S.W. Jackson Rm 551-S  
Topeka, Kansas 66612-1230

  
Diane M. Glynn, J.D., R.N.  
Practice Specialist