

Filed
DEC 30 2004
Board of Nursing

KANSAS STATE BOARD OF NURSING
MARY BLUBAUGH MSN, RN, EXECUTIVE ADMINISTRATOR

KATHLEEN SEBELIUS, GOVERNOR

12-30-2004

Petra Shute
3215 Winchester
Kansas City, MO 64129

Case 04-604-0

SUMMARY ORDER

Dear Ms. Shute:

The Disciplinary Committee of the Kansas State Board of Nursing has reviewed your application materials and on behalf of the Board members I am denying your reinstatement application to practice nursing as a registered nurse in Kansas. This denial is based upon the following:

FINDINGS OF FACT

1. Applicant has submitted an application for a reinstatement of her RN license received by the Board 12/9/2004.
2. Applicant answered the question "Has disciplinary action ever been taken or is such action pending on any license in Kansas or in any other state, territory, county, or governmental agency?" NO on her 12/9/2004 application.
3. A search of nursing board actions by this agency revealed that the respondent has a current discipline on her license in North Dakota. A certified copy of the 7/6/2004 "Order Stipulation For Settlement" is attached and incorporated within. The discipline is a suspension of her nursing license from July 6, 2004 until July 6, 2006 and a \$1500 penalty fee for the following violations of the North Dakota Nurse Practice Act:
 - Professional misconduct
 - Diverted or attempted to divert supplies, equipment, drugs or controlled substances for personal use or unauthorized use.
 - Practice of nursing without sufficient knowledge, skills, or nursing judgment
 - Performance of nursing interventions in a manner inconsistent with acceptable nursing standards
 - Inaccurate or incomplete documentation or recording, or falsification, alteration, or destruction of Board records or client, employee, or employer records.

CONCLUSIONS OF LAW

4. K. S. A. 65-1120(a) provides that it is a ground for denial of a license if the applicant is found to be guilty of:

K.S.A. 65-1120(a)(6), unprofessional conduct by drug diversion 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)(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (8).

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: (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

K.A.R. 60-3-110(d) by inaccurately recording, falsifying, or altering any record of a patient, or agency or of the board.

K.S.A. 65-1120(a)(1) to be guilty of fraud or deceit in practicing nursing.

5. K.S.A. 77-511(a)(2)(a) of the Kansas Administrative Procedure Act authorizes the use of summary proceedings by a state agency when denying an application.
6. Your conduct described herein violates the Kansas Nurse Practice Act.
7. If the information provided is incorrect, or if you wish to dispute this matter, please let us know immediately by following the procedure for requesting a hearing. A copy of your application will be sent to you upon request.
8. Pursuant to K.S.A. 77-537, this decision, which is called a Summary Order, is subject to your request for a hearing. If you desire a hearing, you must submit or direct a written request for hearing to:

Kansas State Board of Nursing
Legal Division
900 SW Jackson, Suite 1051
Topeka, Kansas 66612-1230
(785) 296-4325


THIS REQUEST MUST BE SUBMITTED WITHIN FIFTEEN (15) DAYS FROM THE DATE OF THIS ORDER. If a hearing is not requested in the time and manner stated above, this Summary Order becomes effective and final upon the expiration of the time for requesting a hearing.


Kelly Arpin, L.P.N.
Board Member

CERTIFICATE OF SERVICE

I certify that on the 30th day of December, 2004, the foregoing copy of the Summary Order was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Petra Shute
3215 Winchester
Kansas City, MO 64129


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

NORTH DAKOTA
BEFORE THE BOARD OF NURSING OF THE STATE OF NORTH DAKOTA
BOARD OF NURSING

In Re: The License to
Practice Nursing of:
Petra Shute, R.N.
DOB: 9/25/1959

Certified to be true and
correct copy of the original.

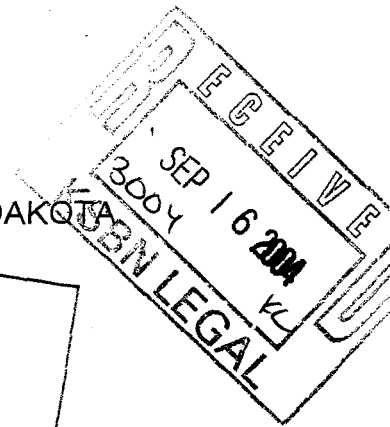
Date 9/14/04

Name _____

RECEIVED

JUL - 6 2004

NORTH DAKOTA
BOARD OF NURSING



STIPULATION FOR SETTLEMENT

WHEREAS, the North Dakota Board of Nursing, hereinafter referred to as the "Board," is duly authorized by law to regulate the profession of nursing pursuant to Chapter 43-12.1 of the North Dakota Century Code, and related statutes, rules, policies and procedures; and

WHEREAS, Petra Shute, hereinafter referred to as "Licensee," is a Registered Nurse possessing a license to practice as such whose profession and the practice thereof is governed by the Board; and

WHEREAS, the purpose of this document is to outline the rights and responsibilities of the Licensee, minimize time and expense, and voluntarily submit the Licensee to the jurisdiction of the Board in professional disciplinary proceedings by the Board against the Licensee.

NOW, THEREFORE, I, Petra Shute, hereby submit to the Board, under oath, the following Stipulation for Settlement:

PETRA SHUTE, BEING FIRST DULY SWORN, STATES AS FOLLOWS:

1.

My name is Petra Shute. I am a Registered Nurse governed by the laws of the State of North Dakota and by the laws, rules, policies and procedures of the Board. I was issued a temporary permit to practice nursing in North Dakota by the Board on November

25, 2003. I was licensed by the Board as a Registered Nurse in the State of North Dakota by endorsement from the state of Missouri on January 9, 2004, and am presently so licensed (License #R30414).

2.

I recently practiced as a Registered Nurse at McKenzie County Memorial Hospital, Watford City, North Dakota.

3.

While employed as a Registered Nurse at McKenzie County Memorial Hospital, I engaged in the following conduct:

A. On December 20, 2003, there were 16 Demerol 100 mg injectables on hand at 7:00 am. I assisted in counting the narcotics on hand at 3:00 pm and documented on the Medication Count Record that there were eleven Demerol. There is no indication that any patients received any Demerol during this time period. I did not account for the five missing Demerol.

B. On April 9, 2004, I assisted in counting the narcotics on hand at 11:00 pm, at which time:

- 1) Demerol 100 mg indicated a count of ten. On April 11, 2004 at 3 pm, Demerol 100 mg indicated a count of five. Only one patient received an injection of Demerol 100 mg on April 10, 2004. The remaining Demerol 100 mg are unaccounted for.
- 2) Demerol 75 mg indicated a count of eight. On April 11, 2004 at 3:00 pm, Demerol 75 mg indicated a count of six. Only one patient received an injection of Demerol 75 mg on April 10, 2004. The remaining Demerol 75 mg is not accounted for.
- 3) The narcotic record for April 10, 2004 is missing and not accounted for.
- 4) I was working on April 9, 10 and 11, 2004.

C. On April 11, 2004:

- 1) At 9:30 am, I documented in the telephone log book that a patient had a surgical procedure and was still in pain.
- 2) At 9:00 am, I documented on the Medication Count Record the administration of Hydrocodone and 2 Demerol 100 mg injectables for this patient.

- 3) There was no order from the physician for Demerol and the patient did not receive any Demerol on this date.
- 4) I failed to follow protocol for the wastage of narcotics in that I neglected to document such wastage for Demerol.
- 5) I reported to the DON that I thought the patient would be receiving Demerol so I drew one injection up but it fell on the floor and broke so I drew up a second dose and then wasted it without a witness to observe or document such action.
- 6) I reported to the board of nursing investigator that I did not draw up any Demerol but that 2 Demerol fell out of the box and onto the floor when I was looking for another medication.

D. On April 11, 2004, I documented two times on a MAR that I gave hydrocodone at 11:00 am to the same patient.

E. On April 14, 2004, I assisted in counting the narcotics on hand at 3:00 pm at which time:

- 1) There were 3 Demerol 100 mg injectables on hand at 7:00 am. One patient received Demerol 100 mg during this time period, changing the count to 2 remaining Demerol 100 mg. I documented on the Medication Count Record that there were zero Demerol 100 mg injectables. I did not account for the two missing Demerol 100 mg injectables.
- 2) There were 6 Demerol 75 mg injectables on hand at 7:00 am. There is no indication that any patient received Demerol 75 mg during this time period. I documented on the Medication Count Record that there were four Demerol 75 mg. I did not account for the two missing Demerol 75 mg injectables.

4.

I admit that during the times and places set out above, I engaged in the conduct described above and practiced as a Registered Nurse under those circumstances.

5.

I agree that the conduct described above, and to which I am admitting, is conduct that violates the Nurse Practices Act as found in Section 43-12.1-14, Subsections 3, 5 and 6 of the North Dakota Century Code, in that such acts constitute:

- A. Having engaged in any practice inconsistent with the standards of nursing

practice;

B. Having engaged in a pattern of practice or other behavior that demonstrates professional misconduct; and

C. Having diverted or attempted to divert supplies, equipment, drugs or controlled substances for personal use or unauthorized use.

6.

I further agree that the conduct described above, and to which I am admitting, is conduct that violates Section 54-02-07-01.1, Subsections 5, 6 and 7, of the North Dakota Administrative Code, in that such acts constitute:

A. Practice of nursing without sufficient knowledge, skills, or nursing judgment;

B. Performance of nursing interventions in a manner inconsistent with acceptable nursing standards;

C. Inaccurate or incomplete documentation or recording, or the falsification, alteration, or destruction of Board records or client, employee, or employer records;

7.

I hereby consent that the Board of Nursing of the State of North Dakota may enter its Order disciplining me as a Registered Nurse, pursuant to Section 43-12.1-14, NDCC, and all applicable laws, rules, policies and procedures.

8.

My consent that the Board enter its discipline and sanction against me as a Registered Nurse is conditioned upon the Board agreeing to the following imposition of discipline:

A. From the date of the Board's Findings of Fact, Conclusions of Law, and Order, and for two years thereafter, my license to practice as a Registered Nurse in the State of North Dakota shall be **SUSPENDED**.

B. I shall submit to the Board my current license to practice as a Registered Nurse within ten (10) days of the date of this Order.

C. I agree to pay a penalty fee of One Thousand Five Hundred Dollars (\$1,500.00).

Insert your initials by the preferred method of payment listed below.

__a) I have submitted the total amount due with this signed Stipulation for Settlement.

__b) I have submitted one-half of the total amount due with this signed Stipulation for Settlement and shall pay the remaining balance within sixty (60) days from the date of the Board's Order.

D. I shall pay costs and disbursements assessed pursuant to NDCC Section 43-12.1-13 in an amount certified by the Executive Director of the Board within sixty (60) days of receipt of the amount due.

E. I understand that I am ineligible to work in any nursing role, including that of a nurse aide, nurse assistant, or medication assistant/aide during the period of my license suspension.

F. At the conclusion of my suspension, and upon my written request and application for reinstatement, if I should choose to do so, I shall personally appear before the Board. I maintain the burden to prove to the satisfaction of the Board that the conditions that led to the suspension of my license no longer exist or no longer have material bearing on my professional ability, or both. The Board may order the reinstatement of my license to probationary status for a specified period of time, with the license marked "encumbered" with identified specific requirements as determined by the Board; or under other terms and conditions as may be set out by the Board.

G. Upon seeking reinstatement of my license, I shall obtain a **chemical dependency** evaluation performed by a licensed addiction counselor within thirty (30) days of my personal appearance before the Board and have a copy of the evaluation sent directly to the Board prior to my personal appearance. Such evaluation shall include:

- A) Verification that the evaluator has reviewed a copy of this Board Order,
- B) Diagnosis and any recommended treatment plan,
- C) Licensee's ability to safely practice nursing,
- D) Recommendations for additional evaluation or treatment, and
- E) Any other information the evaluator believes would assist the Board in its ultimate review of this matter.

H. I understand and agree that if I fail to duly pay all fees, costs and disbursements as assessed by the Board in this disciplinary matter, my license to practice nursing shall continue to be suspended. In such event, I hereby waive further notice or

opportunity for hearing, and I hereby waive my right to contest such extended suspension, except I retain the right to contest whether or not I have duly made such payments. I agree that in such event, the time period of my suspension originally set out by the Board shall be extended and added to the period of my suspension, equivalent to the time period taken to duly pay such fees.

I. I understand that this disciplinary action will be reported to health care agencies in North Dakota and to the boards of nursing of other states via the Nursys Data Bank of the National Council of State Boards of Nursing, as required by NDCC Section 43-12.1-13 and to data banks as required by federal law, including the Healthcare Integrity and Protection Data Bank (HIPDB), and the National Practitioners Data Bank (NPDB).

J. The effective date of this order shall be the date of the Board's Order.

K. I understand and agree that this is a non-appealable Order.

L. All provisions and conditions of this Order shall carry over to any license or privilege to practice nursing in North Dakota that I receive, including pursuant to any multi-state nursing licensure compact with the Board.

M. I understand and agree that the Board may pursue the civil collection against me for the nonpayment of any fees, costs and disbursements I may owe to the Board under this Order, regardless of and in addition to any other provision in this Order.

CONSENT TO ORDER AND WAIVER

1.

I hereby consent that, if the North Dakota Board of Nursing accepts the foregoing conditions and enters its Order accordingly, I then consent, ratify and approve the imposition of such Order against me by the North Dakota Board of Nursing. I hereby waive the issuance of a formal administrative complaint, my right to a hearing and all procedural rights regarding such hearing, including presentation of evidence at such hearing and presence of counsel, appeal of the Board's Order, all other rights under NDCC Chapters 28-32 and 43-12.1, and all other applicable laws, rules and procedures, except for notice of its Order which I may have under such circumstances pursuant to Chapters

43-12.1 and 28-32 of the North Dakota Century Code.

2.

I specifically waive my right to counsel, and I voluntarily and freely enter into this Stipulation for Settlement of my free will, without the advice of counsel, and without any promises having been made to me.

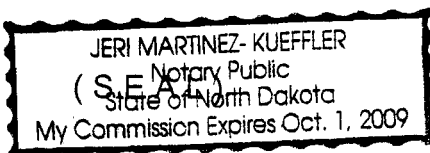
3.

In the event that the Board does not accept the facts and sanctions as I have set out above, or modifies these conditions to my detriment, I hereby revoke and withdraw this document along with all statements made by me herein, and I, under those circumstances, request a hearing before the Board on this matter.

Respectfully submitted this 2nd day of June, 2004.

Petra Shute

Subscribed and sworn to before me this 2nd day of June, 2004.



Notary Public
State of North Dakota
My Commission Expires: Oct 1, 2009

Approved as to form:

Brian L. Bergeson
Special Assistant Attorney General
ID #05780
P.O. Box 2196
Bismarck, ND 58502
Phone: (701) 223-1986
Fax: (701) 223-4049
ATTORNEY FOR NORTH DAKOTA
BOARD OF NURSING

BEFORE THE BOARD OF NURSING OF THE STATE OF NORTH DAKOTA

In Re: The License to
Practice Nursing of:
Petra Shute, R.N.
DOB: 9/25/1959

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

The above-entitled matter came on for consideration before the Board of Nursing of the State of North Dakota (the "Board") on the 15th day of July, 2004; the Licensee having waived her right to issuance of a formal administrative complaint and her right to a hearing and having consented to the entry of the Board's Order pursuant to a "STIPULATION FOR SETTLEMENT" executed by the Licensee on the 2nd day of ~~June~~ July, 2004; the Board's deliberations having been held pursuant to information duly brought to the attention of the Board relative to the professional status of the Licensee as a Registered Nurse, that the Licensee, Petra Shute, not being present at such deliberations before the Board, nor being represented by counsel at such deliberations, and having waived her right to be present and present testimony; that the Board was represented by its legal counsel, Special Assistant Attorney General Brian L. Bergeson; that at such deliberations the Board received the sworn written testimony presented to the Board by the Licensee, through her "STIPULATION FOR SETTLEMENT," and based upon all the files and records herein, and the Board being fully informed in the premises, does now make and file herein the following:

1. The Board adopts as its Findings of Fact and Conclusions of Law, the facts and conclusions set out in the "STIPULATION FOR SETTLEMENT", which

is incorporated herein by reference.

2. The Board accepts and agrees to the terms of the "STIPULATION FOR SETTLEMENT."
3. The Board adopts as its ORDER the sanctions agreed upon by the Licensee as set out in the "STIPULATION FOR SETTLEMENT."

Dated this 15th day of July, 2004.

THE NORTH DAKOTA BOARD OF NURSING

By: _____
Helen Melland, Ph.D., R.N.
President

By: _____
Constance B. Kalanek, Ph.D., R.N.
Executive Director

Approved as to form:

Brian L. Bergeson
Special Assistant Attorney General
ID #05780
P.O. Box 2196
Bismarck, ND 58502
Phone: (701) 223-1986
Fax: (701) 223-4049
ATTORNEY FOR NORTH DAKOTA
BOARD OF NURSING

BEFORE THE BOARD OF NURSING OF THE STATE OF NORTH DAKOTA

In Re: The License to
Practice Nursing of:
Petra Shute, R.N.
DOB: 9/25/1959

**NOTICE OF ENTRY OF
FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

TO: PETRA SHUTE

YOU WILL PLEASE TAKE NOTICE that the North Dakota Board of Nursing has entered and filed herein its Findings of Fact, Conclusions of Law, and Order in regard to the above-entitled matter, and that a true and correct copy of such Findings of Fact, Conclusions of Law, and Order are set out above and in the "STIPULATION FOR SETTLEMENT" which you have previously signed and the terms to which you have previously agreed, a true and correct copy of which is attached.

Dated this 15th day of July, 2004.

Brian L. Bergeson
Special Assistant Attorney General
ID #05780
P.O. Box 2196
Bismarck, ND 58502
Phone: (701) 223-1986
Fax: (701) 223-4049
ATTORNEY FOR NORTH DAKOTA
BOARD OF NURSING

CERTIFICATE OF SERVICE

I certify that on the 20th day of July, 2004, a true and correct copy of the attached **Stipulation for Settlement** (including **Consent to Order and Waiver**), **Findings of Fact, Conclusions of Law and Order**, and **Notice of Entry of Findings of Fact, Conclusions of Law and Order** was mailed, regular mail, to:

Petra Shute
1312 18th Street West, Apt. 4
Williston ND 58801

Julie Schwan
Administrative / Services Coordinator
North Dakota Board of Nursing