

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

STATE OF NEBRASKA ex rel.,
JON BRUNING, Attorney General,

Plaintiff,

vs.

DAVID ADAM SNELL, R.N.,

Defendant.

10-3723

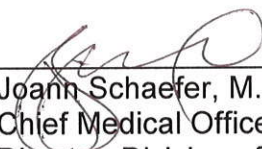
ORDER ON
AGREED SETTLEMENT

A proposed Agreed Settlement was filed with the Department on November 19, 2010.

ORDER

1. The Agreed Settlement is adopted, attached hereto and incorporated by reference.
2. The facts as set out in the petition are taken as true and adopted herein.
3. The parties shall comply with all of the terms of the Agreed Settlement.

DATED this 2 day of December, 2010.

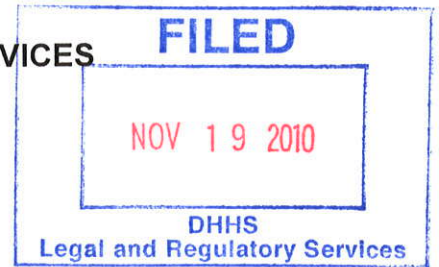

Joann Schaefer, M.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 3rd day of December, 2010 a copy of the foregoing **ORDER ON AGREED SETTLEMENT** was sent by United States certified mail, postage prepaid, return receipt requested, to **David Adam Snell, 14106 Jennifer Road, Omaha, NE 68138** and by interoffice mail to **Lisa K. Anderson**, Assistant Attorney General, 2115 State Capitol, Lincoln, Nebraska.


Keith B. Roland
DHHS Legal and Regulatory Services
P.O. Box 98914
Lincoln NE 68509-8914
P. (402) 471-7237 F. (402) 742-2376

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA



STATE OF NEBRASKA ex rel. JON)
BRUNING, Attorney General,)
)
Plaintiff,)
)
vs.)
)
DAVID ADAM SNELL, R.N.,)
)
Defendant.)

AGREED SETTLEMENT

The Plaintiff and the Defendant, David Snell, R.N., in consideration of the mutual covenants and agreements contained herein, agree as follows:

1. The Defendant, David Snell, R.N., was issued a registered nursing license (#56974) by the Nebraska Department of Health and Human Services Division of Public Health ("Department").
2. The Defendant acknowledges receipt of a copy of the Petition to Revoke Probation and waives the need for further service of the Petition upon him.
3. Before disciplinary measures may be taken against the Defendant's license, the Defendant is entitled to a hearing as provided by law. The Defendant waives the right to a hearing. The Defendant also waives any right to judicial review of a disciplinary order which approves the terms of this Agreed Settlement.
4. No coercion, threats, or promises, other than those stated herein, were made to the Defendant to induce him to enter into this Agreed Settlement.
5. The Defendant acknowledges that he is not licensed to practice nursing in any state other than Nebraska.

6. The Defendant acknowledges that he has read the Petition to Revoke Probation filed by the Attorney General's Office, admits the allegations in the Petition, and desires to voluntarily surrender his nursing license and privilege to practice nursing in the State of Nebraska under the Nurse Licensure Compact.

7. The Plaintiff and the Defendant consent to the Department's Chief Medical Officer entering a final disciplinary order which finds that the allegations of the Petition to Revoke Probation are true and grounds exist to accept the voluntary surrender of the Defendant's nursing license and privilege to practice nursing in the State of Nebraska under the Nurse Licensure Compact.

8. The Defendant acknowledges that the voluntary surrender of his Nebraska nursing license and privilege to practice nursing in the State of Nebraska under the Nurse Licensure Compact is for a period of two (2) years and reinstatement of his license and privilege is at the discretion of the Department and upon approval of the Nebraska Board of Nursing.

9. Any Nebraska nursing license now in the possession of the Defendant shall be surrendered to the Department upon the entry of the Chief Medical Officer's Order of Agreed Settlement.

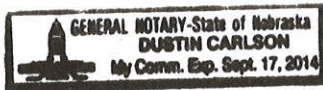
10. If this Agreed Settlement is not approved by the Chief Medical Officer, this Agreed Settlement shall become null and void and will not be admissible for any purpose at any hearing that may be held on this matter.

AGREED TO:

BY: David Adam Snell, RN
David Adam Snell, R.N.,
Defendant

State of Nebraska)
) ss.
County of Douglas)

Acknowledged before me by David Snell, R.N., on this 16th day of
November, 2010.



[Signature]
Notary Public
My Commission Expires: Sept 17, 2014

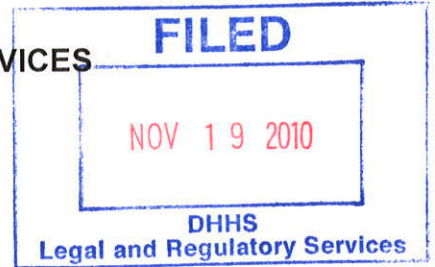
STATE OF NEBRASKA, ex rel. JON
BRUNING, Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: [Signature]
Lisa K. Anderson, #21845
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509-8920
(402) 471-4593

Attorneys for the Plaintiff.

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA



STATE OF NEBRASKA ex rel. JON)
BRUNING, Attorney General,)
)
Plaintiff,)
)
v.)
)
DAVID ADAM SNELL, R.N.,)
)
Defendant.)

PETITION TO REVOKE
PROBATION

The Plaintiff alleges as follows:

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION:

1. On February 19, 2003, a Petition for Disciplinary Action was filed against the Defendant's nursing license alleging he diverted controlled substances (alprazolam, hydrocodone and oxycodone) from pyxis machines for personal use; he exhibited dishonorable conduct by repeatedly stealing controlled substances; he falsified hospital records to cover up the thefts; he lied to hospital investigators when confronted about medication discrepancies; he was opioid dependent, and he was initially untruthful when speaking to a Department investigator.

2. On April 23, 2003, the Chief Medical Officer issued a Findings of Fact, Conclusions of Law and Order which suspended the Defendant's nursing license for a period of sixty (60) days. The Chief Medical Officer also ordered the Defendant's license be placed on inactive status after the suspension period expired because the Defendant intended to relocate outside Nebraska, and the Defendant's license could only be reactivated subject to a term of probation.

3. The Defendant applied for reinstatement of his nursing license after the sixty day period of suspension expired. On September 13, 2003, the Chief Medical Officer issued a Findings of Fact, Conclusions of Law and Order reinstating the Defendant's nursing license subject to a limitation that he would not engage in the practice of nursing in Nebraska prior the issuance of final order by the Chief Medical Officer setting forth monitoring conditions based on recommendations made by the Board of Nursing after approval of a practice plan submitted to the Board by the Defendant.

4. The Defendant moved to Alaska and was issued a probationary Alaska nursing license in January of 2004. The probationary license was issued based on a memorandum of understanding signed by the Defendant in which he admitted to being convicted of two counts of possession of a narcotic controlled substance and one count of possession of drug paraphernalia in 1992 in California and one count of possession of drug paraphernalia in 2000 in Missouri. The Defendant also admitted to abusing Percocet, xanax, vicodin and valium.

5. On December 24, 2005, the Defendant signed a voluntary surrender of his Alaska nursing license due to "leaving the state and being in non-compliance with the memorandum of understanding. The Defendant felt the memorandum of understanding was excessive and did not wish to continue with the terms."

6. On January 3, 2006, the Defendant notified the Department's Compliance Monitor that he desired to practice in Nebraska.

7. An investigator from the Alaska Board of Nursing informed the Compliance Monitor that the Defendant tested positive for marijuana on November 16,

2004 and October 27, 2005. The Alaska investigation said the Defendant admitted that he smoked marijuana. The Defendant was allowed to surrender his Alaska nursing license because he left the state.

8. On May 16, 2006, a Petition for Disciplinary Action was filed against the Defendant's nursing license alleging the Defendant violated the Uniform Controlled Substances Act as evidenced by his November 16, 2004 and October 27, 2005 positive marijuana body fluid screen tests.

9. August 4, 2006, the Chief Medical Officer issued a Findings of Fact, Conclusions of Law and Order revoking the Defendant's nursing license.

4. On December 4, 2009, the Chief Medical Officer reinstated the Defendant's nursing license on probation for a term of five (5) years. The probationary conditions include:

Condition 2: Applicant shall abstain from all personal use and possession of controlled substances and other prescription drugs unless prescribed for or administered to Applicant by a licensed practitioner for a diagnosed medical condition. Applicant shall advise all treating physicians or other medical practitioners of his history of chemical dependency and of all prescriptions he is currently taking at the time of treatment. The Applicant shall report monthly the use of controlled substances and other prescription drugs to the Department with written documentation of the medical reason from the prescribing practitioner. Such reports shall be due no later than the 10th day of the month following the last day of the previous month.

8. On October 21, 2010, the Defendant submitted a body fluid sample which tested positive for marijuana metabolites at a level of 22 ng/ml with a confirmation test level of 15 ng/ml.

9. The Defendant denies knowingly ingesting marijuana. The Defendant informed the Department Compliance Monitor that on October 20, 2010, a stranger on

the street offered him a menthol cigarette. The Defendant did not ask for a cigarette. The Defendant reported that he smoked the cigarette, and the menthol may have camouflaged any marijuana taste.

11. The Defendant's positive marijuana test constitutes a violation of probationary condition 2 and is grounds for discipline.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that the Chief Medical Officer set this matter for hearing, order appropriate disciplinary action pursuant to Neb. Rev. Stat. § 38-196 (Reissue 2008) and tax the costs of this action to the Defendant.

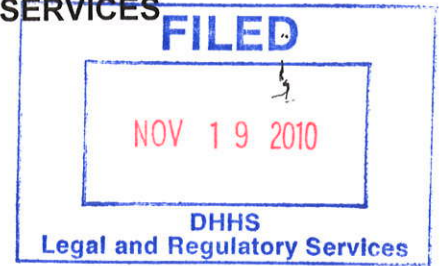
STATE OF NEBRASKA ex rel. JON
BRUNING, Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: 
Lisa K. Anderson, #21845
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
(402) 471-4593

Attorneys for Plaintiff.

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA




STATE OF NEBRASKA ex rel. JON)
BRUNING, Attorney General,)
)
Plaintiff,)
)
v.)
)
DAVID ADAM SNELL, R.N.,)
)
Defendant.)

VOLUNTARY APPEARANCE

The undersigned Defendant acknowledges receipt of a copy of the Petition to Revoke Probation, enters his voluntary appearance and waives the need for service of the Petition to Revoke Probation.

Future notices concerning the above-captioned matter can be sent to the Defendant at the address listed below.

Dated this 15th day of November, 2010.



David Adam Snell, R.N.
Defendant

Mailing Address:

14106 Jennifer Road
Omaha, NE 68138

CREDENTIALING DIVISION

AUG 10 2006

RECEIVED

80 - 605168

v.

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

DAVID SNELL, R.N.

Defendant.

SUMMARY OF THE HEARING

FINDINGS OF FACT

1. Jurisdiction is based on Neb. Rev. Stat. Sections 71-150 and 71-1,132.29.
2. At all times relevant herein, the Defendant has been the holder of a registered nursing license (#56974) issued by the Nebraska Department of Health and Human Services Regulation and Licensure ("Department") to engage in the practice of nursing.
3. The Department is the agency of the State of Nebraska authorized to enforce the laws of Nebraska regulating the practice of nursing.
4. The Nebraska Board of Nursing considered the investigation of this matter and made its recommendation to the Attorney General, which recommendation has been considered.
5. On February 19, 2003, a Petition for Disciplinary Action was filed against the Defendant alleging that he diverted controlled substances from a pyxis machine namely alprazolam, hydrocodone and oxycodone for his own personal use; that he exhibited dishonorable conduct by repeatedly stealing or obtaining controlled substances by theft; falsified hospital records to cover up drug thefts; lied to hospital supervisors when confronted about the medication discrepancies; submitted a false mandatory report to the Department concerning the Defendant's misconduct at the hospital and initially lied to the Department investigator in the course of the discipline investigation. It was also alleged that he is opioid dependent.

6. On April 23, 2003, a Findings of Fact Conclusions of Law and Order was entered by the Chief Medical Officer finding the allegations to be true and suspending the Defendant's nursing license for a period of sixty (60) days. The Order also stated that since the Defendant intends to relocate outside the State of Nebraska and not practice nursing in the State of Nebraska, upon the expiration of the sixty-day suspension, his license will be placed on inactive status and will not be reinstated to active status until such request has been reviewed by the Board of Nursing and the Chief Medical Officer and then only on probation subject to such terms and conditions as may be appropriate at the time.

7. Following the mandatory suspension period, the Defendant sought reinstatement of his nursing license. On September 13, 2003, Findings of Fact Conclusions of Law and Order was signed by the Chief Medical Officer granting the Defendant a nursing license with a limitation that he not engage in the practice of nursing in the State of Nebraska prior to submitting a practice plan and having approval of said plan from the Nebraska Board of Nursing. Upon approval of the practice plan by the Board of Nursing, the Board is to make recommendations for monitoring conditions in the State of Nebraska to the Chief Medical Officer who will take the Board's recommendations into consideration when setting such conditions into an Order.

8. The Defendant moved to Alaska and was issued a nursing license on probation by Alaska in January of 2004. The probationary license was based upon a Memorandum of Understanding signed by the Defendant. He admitted to being convicted in 1992 of two counts of Possession of a narcotic controlled substance and one count of possession of drug paraphernalia in California and a misdemeanor conviction for possession of drug paraphernalia in Missouri in 2000. He also admitted to abusing percocet, xanax, vicodin and valium and that he has an addiction to controlled substances and alcohol which if left untreated, could adversely affect his ability to practice as a registered nurse.

9. On December 24, 2005, the Defendant signed a Voluntary Surrender of his Alaska license due to "leaving the state and being in non-compliance with the Memorandum of Understanding. The Defendant felt the Memorandum of Understanding was excessive and did not wish to continue with the terms."

10. On January 3, 2006, the Defendant notified the Department's credentialing monitor that he wished to practice in Nebraska.

11. An investigator from the Alaska Board of Nursing informed the credentialing monitor that the Defendant tested positive for marijuana use on November 16, 2004 and October 27, 2005, and that the Defendant had admitted to him that he had smoked marijuana. The investigator from Alaska had informed the Defendant that he was going to tighten his terms of probation by increasing his random drug screens, etc. The Defendant moved from the state of Alaska before the new conditions could be implemented. The Defendant was allowed to surrender his license in Alaska as a result.

CONCLUSIONS OF LAW

1. Neb. Rev. Stat. Section 71-147(17) provides that a professional license may be disciplined for violation of the Uniform Controlled Substances Act.

2. Neb. Rev. Stat. Section 28-416(13) provides that it is a violation of the Uniform Controlled Substances Act to knowingly or intentionally possess marijuana.

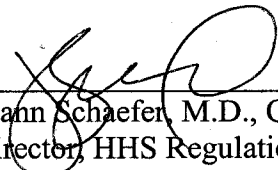
3. Defendant's conduct of ingesting and possessing marijuana is grounds for discipline.

ORDER

Mr. Snell's license to practice as a Registered Nurse in the State of Nebraska is hereby revoked effective on the date of this Order as are his privileges to practice under the Nurse Interstate Compact.

DATED this 4 day of August, 2006.





Joann Schaefer, M.D., Chief Medical Officer
Director, HHS Regulation and Licensure

CERTIFICATE OF SERVICE

August COMES NOW the undersigned and certifies that on the 8th day of August, 2006, a copy of the foregoing **FINDINGS OF FACT/ CONCLUSIONS OF LAW AND ORDER** was sent by certified United States mail, postage prepaid, return receipt requested, to David Snell, 709 Cherry Street, Louisville NE 68037 and by interagency mail to Terri J. Nutzman, Assistant Attorney General, 2115 State Capitol, Lincoln, Nebraska.

BY:


Jo Seefeld
HHS R & L Administrative Services
P.O. Box 95007
Lincoln NE 68509-5007
(402) 471-0384

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE
STATE OF NEBRASKA

FILED

MAY 16 2006

HHS REGULATION
AND LICENSURE

STATE OF NEBRASKA ex rel. JON
BRUNING, Attorney General,

Plaintiff,

v.

DAVID SNELL, R. N.,

Defendant.

80-1005168
PETITION FOR
DISCIPLINARY ACTION

CREDENTIALING DIVISION

MAY 17 2006

RECEIVED

The Plaintiff alleges as follows:

1. Jurisdiction is based on Neb. Rev. Stat. Sections 71-150 and 71-1,132.29.
2. At all times relevant herein, the Defendant has been the holder of a registered nursing license (#56974) issued by the Nebraska Department of Health and Human Services Regulation and Licensure ("Department") to engage in the practice of nursing.
3. The Department is the agency of the State of Nebraska authorized to enforce the laws of Nebraska regulating the practice of nursing.
4. The Nebraska Board of Nursing considered the investigation of this matter and made its recommendation to the Attorney General, which recommendation has been considered. Such matters are privileged pursuant to Neb. Rev. Stat. Section 71-168.01(7) and 71-168.01(8).
5. On February 19, 2003, a Petition for Disciplinary Action was filed against the Defendant alleging that he diverted controlled substances from a pyxis machine namely alprazolam, hydrocodone and oxycodone for his own personal use; that he exhibited dishonorable conduct by repeatedly stealing or obtaining controlled substances by theft;

falsified hospital records to cover up drug thefts; lied to hospital supervisors when confronted about the medication discrepancies; submitted a false mandatory report to the Department concerning the Defendant's misconduct at the hospital and initially lied to the Department investigator in the course of the discipline investigation. It was also alleged that he is opioid dependent.

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12. Neb. Rev. Stat. Section 71-147(17) provides that a professional license may be disciplined for violation of the Uniform Controlled Substances Act.

13. Neb. Rev. Stat. Section 28-416(13) provides that it is a violation of the Uniform Controlled Substances Act to knowingly or intentionally possess marijuana.

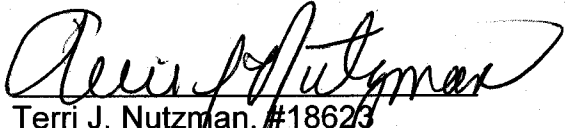
14. Defendant's conduct of ingesting and possessing marijuana is grounds for discipline.

PRAYER

WHEREFORE, the Plaintiff requests that the Director set this Petition for Disciplinary Action for hearing and enter an order for appropriate disciplinary action pursuant to Neb. Rev. Stat. Section 71-155 and tax the costs of the proceeding to the Defendant.

STATE OF NEBRASKA ex rel. JON
BRUNING, Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: 
Terri J. Nutzman, #18623
Assistant Attorney General
2115 State Capitol
Lincoln, Nebraska 68509
402-471-9658

ATTORNEYS FOR PLAINTIFF.