

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



STATE OF NEBRASKA ex rel., JON BRUNING, Attorney General,)
)
Plaintiff,)
)
vs.)
)
LINDSEY CREEKMORE, R.N.,)
)
Defendant.)

131321

ORDER ON
AGREED SETTLEMENT

A proposed Agreed Settlement was filed with the Department on July 11, 2014.

ORDER

1. The Agreed Settlement is adopted, attached hereto and incorporated by reference.
2. The facts as set out in the Amended Petition are taken as true and adopted herein.
3. The parties shall comply with all of the terms of the Agreed Settlement.
4. The Department shall issue a license marked probationary in such a manner as the Department shall determine.

DATED this 14th day of July, 2014.

Blaine Shaffer, M.D.
Blaine Shaffer, M.D.
Division of Behavioral Health
Dept. of Health & Human Services

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 14th day of July, 2014, a copy of the foregoing **ORDER ON AGREED SETTLEMENT** was sent certified United States Mail, postage prepaid, return receipt requested to the attorney for Defendant, Clarence Mock, Johnson & Mock, 307 N. Oakland Ave., P.O. Box 62, Oakland, NE 68045 and by e-mail to Lisa Anderson, Assistant Attorney General, at the e-mail address: ago.health@nebraska.gov.

Beth Davidson
DHHS Hearing Office
P.O. Box 98914
Lincoln, Nebraska 68509-8914
P. (402) 471-7237 F. (402) 742-2376

RECEIVED

7/11/2014

In Camera Only

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.)
)
LINDSEY CREEKMORE, R.N.,)
)
Defendant.)

131321

AGREED SETTLEMENT

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

1. The Defendant, Lindsey Creekmore, R.N., is the holder of a registered nursing license (#69665) issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department").

2. The Defendant acknowledges receipt of a copy of the Amended Petition for Disciplinary Action ("Amended Petition") and waives the need for further service of the Petition upon her.

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 her to enter into this Agreed Settlement.

5. The Defendant acknowledges that she is not licensed to practice nursing in any state other than Nebraska.

6. The Defendant acknowledges that she has read the Amended Petition filed by the Attorney General's Office. The Defendant admits paragraphs 1-49. The Defendant does not contest paragraph 50.

7. The Parties acknowledge the Defendant relied on the Department's determination in 2009, following an inspection, that complex nursing care at the Bellevue Health Clinic was provided only by registered nurses. At the time of the inspection, recovery room patient care was provided by unlicensed staff. The Parties further acknowledge that in 2013, the Department's Nurse Practice Consultant and two independent experts determined unlicensed staff working in the recovery room at the Bellevue Health Clinic are providing complex nursing care.

8. The Plaintiff and the Defendant consent to the Chief Medical Officer entering a disciplinary order which finds the allegations in the Amended Petition are true and grounds exist to place the Defendant's nursing license on a two (2) year term of probation, effective ten (10) days from the date of the entry of the Order on Agreed Settlement, with the following conditions:

A. The Defendant's nursing license shall be suspended during the first sixty (60) days of probation. The Defendant shall not engage in any conduct which constitutes the practice of nursing during the period of suspension.

B. The Defendant shall complete the theory portion of the Washington State University Medication Administration Course within the first ninety (90) days of probation. The Defendant shall provide proof of successful completion to the Department as directed.

C. The Defendant shall complete the National Council of State Boards of Nursing Documentation Course within the first sixty (60) days of probation. The

Defendant shall provide proof of successful completion to the Department as directed.

D. The Defendant shall complete the National Council of State Boards of Nursing Professional Accountability course within the first sixty (60) days of probation. The Defendant shall provide proof of successful completion to the Department as directed.

E. The Defendant shall complete the National Council of State Boards of Nursing Critical Thinking course within the first sixty (60) days of probation. The Defendant shall provide proof of successful completion to the Department as directed.

F. The Defendant shall complete the National Council of State Boards of Nursing Delegating Effectively course within the first sixty (60) days of probation. The Defendant shall provide proof of successful completion to the Department as directed.

G. The Defendant shall be employed as a nurse only by an employer who provides employer quarterly reports to the Department. Employer quarterly reports shall be submitted to the Department by the Defendant's supervisor. Reports shall include a description of the Defendant's work habits and compliance with the laws and regulations governing the practice of nursing. Reports shall be due no later than the 10th day of the month following the end of each quarter. An initial employer report shall be submitted as directed by the Department. A final employer report shall be due not less than thirty (30) days before the expiration of the probationary period.

H. The Defendant shall not practice nursing in any state, other than Nebraska, which is a party state to the Nurse Licensure Compact without prior written authorization from both the Department and the party state in which the Defendant desires to practice.

I. The Defendant may provide nursing services in an ambulatory surgical center only if the facility has at least one registered nurse who: 1) is physically present where patients are recovering from anesthesia/sedation and 2) exclusively provides nursing care to patients during the recovery process.

J. The Defendant shall not provide nursing services for staffing agencies or in-home healthcare.

K. The Defendant shall provide notification of her disciplinary action to all current and potential employers for whom she provides nursing services, any nursing educational program in which she is enrolled or may enroll and to the licensing authority in any state where she has or obtains an active nursing license within five (5) days of receipt of the Order on Agreed Settlement by the

Chief Medical Officer and within five (5) days of any changes in employment or any subsequent out-of-state licensure. Such notification shall include copies of the Amended Petition for Disciplinary Action, this Agreed Settlement, and the Order on Agreed Settlement entered by the Chief Medical Officer. Written confirmation of this notification shall be provided by the Defendant to the Department within thirty (30) days of the entry of the Order on Agreed Settlement by the Chief Medical Officer or change in employment or any subsequent out-of-state licensure.

L. The Defendant shall submit written notification to the Department within seven (7) days of any change in employment, employment status, residence, or telephone.

M. All reports, notices, and other documentation requested by the Department shall be provided using report forms provided by the Department.

N. The Defendant shall promptly respond to all requests and inquiries by the Department concerning the Defendant's compliance with the terms of probation.

O. The Defendant shall obey all state and federal laws and the rules and regulations regarding the practice of nursing.

P. The Defendant shall pay any costs associated with assuring compliance with this Agreed Settlement.

R. The Defendant shall appear at any meetings of the Board of Nursing when requested.

S. Any period the Defendant holds an inactive Nebraska license shall not reduce the probationary period or satisfy the terms and conditions of probation. The Defendant must practice nursing a minimum of two thousand and eighty (2,080) hours during the probationary period. If the minimum required number of practice hours is not met by the end of the probationary period, the probationary period shall be extended until the minimum number of practice hours has been completed. Practice in another state or jurisdiction which adopts the Nebraska probationary terms and conditions of licensure will serve to reduce the Nebraska probationary period.

9. In the event the Defendant violates any of the above probationary conditions, the Chief Medical Officer may, after motion by the Attorney General and a hearing, take further disciplinary action against the Defendant's registered nursing license including revocation of her license.

10. The Attorney General's Office has given notice of this Agreed Settlement to the Board of Nursing and has received their input in accordance Neb. Rev. Stat. § 38-190 (Reissue 2008).

11. 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.

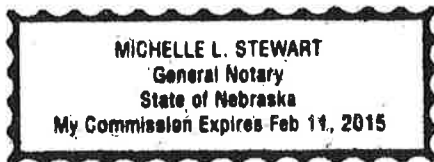
AGREED TO:

BY: Lindsey Creekmore, R.N.
Lindsey Creekmore, R.N.,
Defendant

State of Nebraska)
County of Sarpy) ss.


Acknowledged before me by Lindsey Creekmore, R.N., on this 3rd day of July, 2014.

Michelle L. Stewart
Notary Public
My Commission Expires:



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 68509-8920
(402) 471-4593

Attorneys for the Plaintiff.

65-3130a-3



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. LINDSEY CREEKMORE, R.N., Defendant.

131321

AMENDED PETITION FOR DISCIPLINARY ACTION

The Plaintiff alleges as follows:

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION:

- 1. Jurisdiction is based on Neb. Rev. Stat. §§ 38-176 and 38-186 (Reissue 2008).
2. At all times relevant herein, the Defendant, Lindsey Creekmore, R.N., has been the holder of a registered nursing license (#69665) issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department").
3. The Department is the agency in the State of Nebraska authorized to enforce the provisions of the Uniform Credentialing Act regulating the practice of nursing.
4. The Nurse Licensure Compact authorizes the Department to discipline the multistate nurse licensure privilege of the Defendant to practice in the State of Nebraska in accordance with Neb. Rev. Stat. § 38-196 (Reissue 2008).
5. The Nebraska Board of Nursing considered the investigation of this matter and made a disciplinary recommendation to the Attorney General, which

recommendation has been considered. Such matters are privileged pursuant to Neb. Rev. Stat. §§ 38-1,105 and 38-1,106 (Reissue 2008).

6. The Defendant has been employed as a full-time nurse at Bellevue Health and Emergency Clinic, Inc. (hereinafter "the Clinic") in Bellevue, Nebraska since September 2009.

7. The Defendant has been the only nurse working in the Clinic since April 30, 2011. Prior to April 30, 2011, another registered nurse, S.H., also worked in the Clinic.

8. The Clinic maintains the following IV sedation standing order:

"IV sedation (To be given by Licensed Staff only)

- Versed 1 mg/mL – 2 mL IVP
- Fentanyl 50 mcg/mL – 2 mL (125 mcg)
- For patient under 120 pounds the meds will be decreased to: Versed – 1.5 mL and Fentanyl 1.5 mL
- For patients under 100 pounds the meds will be decreased to: Versed – 1 mL and Fentanyl 1 mL."

9. The Defendant informed a Department investigator that she is responsible for administering IV sedation medication during abortion procedures.

10. The Clinic maintains the following standing order for Pitocin IV 10 units/cc:

"For Patients with 15 – 21.6 week gestation – One hour prior to delivery, 1000 cc IV fluid with 30u of Pitocin added will be started and ran at a rate of 30 ggts per minute."

11. On March 31, 2012, Patient #1 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Chart order: Titrate to comfort with ½ mL Fentanyl and ½ mL Versed q 15 min prn;
- b. Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 947;

- c. Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 1246;
- d. Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 1249;
- e. Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 1300;
- f. Defendant documented administering D5%LR with 50 units Pitocin; Defendant did not record the time of administration.

12. On March 16, 2012, Patient #2 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Patient weighs less than 120 pounds;
- b. Defendant documented administering Versed (1 mg/mL) 2.0 and Fentanyl (50 mcg/mL) IVP 2.0 at 1144.

13. On March 15, 2012, Patient #3 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Defendant documented administering Versed (1 mg/mL) 2.0 at 1115 and Fentanyl (50 mcg/mL) IVP 2.0 at 1115;
- b. Defendant documented administering Versed (1 mg/mL) 1.0 and Fentanyl (50 mcg/mL) IVP 1.0 at 1119.

14. On April 8 and 9, 2011, Patient #4 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. 4/9/11: Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 942;
- b. 4/9/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 943;
- c. 4/9/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV at 956.

15. On April 1 and April 2, 2011, Patient #5 underwent a surgical abortion procedure at the Clinic. The treatment record includes the following information:

- a. 4/2/11: Defendant documented administering D5LR with 40 units Pitocin at 1254;
- b. 4/2/11: Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 1222;
- c. 4/2/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 1233;
- d. 4/2/11: Defendant documented administering Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 1235;
- e. 4/2/11: Defendant documented administering Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 1245;
- f. 4/2/11: Defendant documented administering Fentanyl (50 mcg/mL) 1.0 IV at 1252.

16. On April 2, 2011, Patient #6 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Chart order: Titrate to comfort with .5 mL Fentanyl and/or .5 mL Versed q 15 min prn;
- b. Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 1055;
- c. Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 1415;
- d. Defendant documented administering Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 1420;
- e. Defendant documented administering Versed (1 mg/mL) 1.0 IV at 1424;
- f. Defendant documented administering Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 1430;
- g. Defendant documented administering Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 1432;

17. Between February 26 and 27, 2011, Patient #7 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. 2/27/11: Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 836;
- b. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 902;
- c. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV at 910;
- d. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 929;
- e. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 958;
- f. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 1026;
- g. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 1045
- h. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV at 1047;
- i. Defendant documented administering D5LR #2 with 30 units Pitocin IV. The Defendant did record the time of administration.

18. On February 26 and 27, 2011, Patient #8 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. 2/27/11: Defendant administered Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 756.

19. On February 13, 2011, Patient #9 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 1013;
- b. Defendant documented administering Versed (1 mg/mL) 1.0 IV at 1020;
- c. Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 1029.

20. On February 3 and 4, 2011, Patient #10 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Chart order (2/4/11): titrate to comfort ½ mL Fentanyl and ½ mL Versed q 15 min prn;
- b. 2/4/11: Defendant documented administering Versed (1mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 938;
- c. 2/4/11: Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 1253;
- d. 2/4/11: Defendant documented administering Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 1301;
- e. 2/4/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV at 1306.

21. On January 30, 2011, Patient #11 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 758;
- b. Defendant documented administering Versed (1 mg/mL) 1.0 IV at 810;
- c. Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 832;
- d. Defendant documented administering Fentanyl (50 mcg/mL) 1.0 IV below the 832 entry but did not include an administration time.

22. The Defendant admits she changes Fentanyl, Versed and Pitocin doses based on verbal orders from L.C., M.D. The Defendant further admits she failed to document these verbal orders in patient records.

23. Medication aides and/or patient care technicians staff the Clinic's abortion procedure recovery room. Recovery room staff duties include, but are not limited to, obtaining vitals, checking perineal pads, ambulating patients and providing post op education/instructions. S.H. informed a Department investigator that a licensed health

care provider is not present in the recovery room unless there are difficulties with a patient. The Defendant informed a Department investigator that she is in charge of the Clinic staff.

24. The Defendant did not meet the acceptable standard of care for a registered nurse licensed in the State of Nebraska based on the following:

- a. Defendant delegated complex nursing care to unlicensed staff;
- b. A registered nurse may not delegate complex nursing care to unlicensed staff;
- c. Recovery room care for surgical abortion patients in the Clinic is complex nursing care.

25. On November 30, 2013, Patient #12 underwent a surgical abortion procedure at the Clinic. During recovery, the patient was transported to the hospital by ambulance for a suspected uterus perforation. The Clinic gave the ambulance crew part of the patient's medical record. The Defendant entered the following information in the progress notes which were given to the ambulance crew:

Time	B/P	P	O2	Temp	Pain	Pad
1020	118/80	101	99	98.3	4	Med
1025	116/78	108	99	98.3	4	
1032	120/76	97	100	98.0	5	
1041	118/76	91	98	98.5	5	Med
1047	118/74	89	99	98.5	6	
1055	122/84	95	99	99.1	7	
1106	124/80	99	98	98.5	3	Lt
1116	118/74	99	98	98.5	3	
1125	118/80	85	99	99.2	4-5	Lt

- 1020 Vitals every 5 min vo Dr. Carhart/L Creekmore RN
- 1055 Vitals every 10 minutes vo Dr. Carhart/L Creekmore RN
- 1105 D5%LR 1L hung TKO. LC
- 1106 Pt reports pain @ 3 after using restroom. LC
- 1125 Pt ok to sit up front and wait for transport vo Dr. Carhart/L Creekmore RN.

26. On December 24, 2013, the Clinic provided a copy of Patient #12's medical record to the Department. The medical record did not include the progress notes listed above in paragraph 25. Instead, the following progress notes were included:

Time	B/P	P	O2	Temp	Pain	Pad
1010	100/78	97	98	99.3	6	Med
1015	112/84	100	98	99.2	4	Lt
1020	110/82	95	99	99.2	4	Lt
1025	114/86	94	97	99.0	2	Lt
1030	108/76	88	98	98.9	2	Lt
1035	110/80	89	99	98.7	2	Lt
1040	114/84	92	99	99.0	2	Lt
1045	112/82	88	98	98.9	2	Lt
1050	115/88	87	99	98.8	2	Lt
1055	112/78	90	99	99.1	2	Lt
1100	116/82	92	99	99.1	7	Lt

--11/30/2013 Patient taken to recovery per w/c placed on O2 monitor vitals to be taken every 5 min.

--1100 Pt reports having cramping-period like @ 7. Fent/Versed 1/1 given IVP vo Dr Carhart/L Creekmore RN

--1105 Pain @ 2. LC

--1115 118/78 90 99 99.1 Lt 2

--1130 118/80 90 98 99.1 Lt 1

--Post instruction sheet given to pt. IV left in with D5LR @ TKO for transport. Pt dismissed @ 1134. L Creemore RN

FIRST CAUSE OF ACTION

27. Paragraphs 1 through 26 are incorporated herein by reference.

28. Neb. Rev. Stat. § 38-178(6)(d) (2012 Cum. Supp.) provides that a professional license may be disciplined for practice of the profession in a pattern of incompetent or negligent conduct.

29. The Defendant's conduct set forth above in paragraphs 1 through 26 constitutes a pattern of negligent conduct which is grounds for discipline.

SECOND CAUSE OF ACTION

30. Paragraphs 1 through 24 are incorporated herein by reference.

31. Neb. Rev. Stat. § 38-178(10) (2012 Cum. Supp.) provides that a professional credential may be disciplined for “permitting, aiding and abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so.”

32. The Defendant’s delegation of complex nursing care to unlicensed Clinic staff is grounds for discipline.

THIRD CAUSE OF ACTION

33. Paragraphs 1 through 26 are incorporated herein by reference.

34. Neb. Rev. Stat. § 38-178(15) (2012 Cum. Supp.) provides that a professional credential may be disciplined for “violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession.

35. Title 172 NAC 99-004.01C(2)(a)(2f) of the Regulations Governing the Provisions of Nursing Care provides that a registered nurse may not delegate treatments which are complex interventions.

36. The Defendant’s delegation of complex nursing care to unlicensed Clinic staff constitutes a violation of the Regulations Governing the Provisions of Nursing Care which is grounds for discipline.

FOURTH CAUSE OF ACTION

37. Paragraphs 1 through 26 are incorporated herein by reference.

38. Neb. Rev. Stat. § 38-178(23) (2012 Cum. Supp.) provides that a professional credential may be disciplined for unprofessional conduct.

39. Neb. Rev. Stat. § 38-179 (Reissue 2008) defines unprofessional conduct as “...any departure or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person,

consumer, or entity is injured, or the conduct is likely to deceive or defraud the public or is detrimental to the public interest, including but not limited to...(10) Failure to keep and maintain adequate records of treatment or service.”

40. The Defendant’s failure to document verbal orders and medication administration times constitutes unprofessional conduct which is grounds for discipline.

FIFTH CAUSE OF ACTION

41. Paragraphs 1 through 26 are incorporated herein by reference.

42. Neb. Rev. Stat. § 38-178(23) (2012 Cum. Supp.) provides that a professional credential may be disciplined for unprofessional conduct.

43. Neb. Rev. Stat. § 38-179 (Reissue 2008) defines unprofessional conduct as “...any departure or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, or the conduct is likely to deceive or defraud the public or is detrimental to the public interest, including but not limited to...(15) such other acts as may be defined in rules and regulations.”

44. Title 172 NAC 101-007.03 of the Regulations Governing the Practice of Nursing defines unprofessional conduct as:

(1) Failure to utilize appropriate judgment in administering safe nursing practice based upon the level of nursing for which the individual is licensed;

(8) Failure to maintain an accurate patient record;

(10) Committing any act which endangers patient safety or welfare.

45. The Defendant’s conduct set forth above in paragraphs 1 through 26 constitutes unprofessional conduct which is grounds for discipline.

SIXTH CAUSE OF ACTION

46. Paragraphs 1 through 26 are incorporated herein by reference.

47. Neb. Rev. Stat. § 38-178(23) (2012 Cum. Supp.) provides that a professional credential may be disciplined for unprofessional conduct.

48. Neb. Rev. Stat. § 38-179 (Reissue 2008) defines unprofessional conduct as "...any departure or failure to conform to the standards of acceptable and prevailing practice of a profession of the ethics of the profession, regardless of whether a person, consumer, or entity is injured, or the conduct is likely to deceive or defraud the public or is detrimental to the public interest, including but not limited to...(15) such other acts as may be defined in rules and regulations."

49. Title 172 NAC 101-007.03 of the Regulations Governing the Practice of Nursing defines unprofessional conduct as:

- (1) Failure to utilize appropriate judgment in administering safe nursing practice based upon the level of nursing for which the individual is licensed;
- (7) Falsification of patient records;
- (8) Failure to maintain an accurate patient record;
- (10) Committing any act which endangers patient safety or welfare.

50. The Defendant's conduct set forth above in paragraphs 25 and 26 constitutes unprofessional conduct which 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 the Plaintiff.

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 11th day of July, 2014, a copy of the foregoing **AMENDED PETITION FOR DISCIPLINARY ACTION** was sent by first-class, postage prepaid United States mail to the attorney for defendant, Clarence Mock, Johnson & Mock, 307 N. Oakland Ave., P.O. Box 62, Oakland, NE 68045.



Lisa K. Anderson, #21845

LICENSURE UNIT
MAR 07 2014
RECEIVED

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

FILED
MAR - 7 2014
DHHS Hearing Office

STATE OF NEBRASKA ex rel.,)
JON BRUNING, Attorney General,)
)
Plaintiff,)
)
vs.)
)
LINDSEY CREEKMORE, RN,)
)
Defendant.)

131321

DELEGATION OF AUTHORITY

The undersigned hereby delegates decision making authority in the above captioned matter to Blaine Shaffer, M.D., Chief Clinical Officer of the Division of Behavioral Health, Department of Health and Human Services.

DATED this 7 day of March, 2014.



Joseph M. Acierno, M.D., J.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

CERTIFICATE OF SERVICE

The undersigned certifies that on the 7th day of March, 2014, a copy of the foregoing was sent by United States Mail, postage prepaid, and/or electronically to the following:

CLARENCE MOCK III
JOHNSON & MOCK
307 N OAKLAND AVE
PO BOX 62
OAKLAND, NE 68045
cmock@johnsonmock.com

LISA ANDERSON
ASSISTANT ATTORNEY GENERAL
ago.health@nebraska.gov



DHHS Hearing Office
PO Box 98914
Lincoln, NE 68509-8914
P. (402) 471-7237 F. (402) 471-7276
dhhs.publichealthhearings@nebraska.gov

LICENSURE UNIT

MAR 07 2014

RECEIVED



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.)
)
LINDSEY CREEKMORE, R.N.,)
)
Defendant.)

PETITION FOR
DISCIPLINARY ACTION

The Plaintiff alleges as follows:

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION:

1. Jurisdiction is based on Neb. Rev. Stat. §§ 38-176 and 38-186 (Reissue 2008).
2. At all times relevant herein, the Defendant, Lindsey Creekmore, R.N., has been the holder of a registered nursing license (#69665) issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department").
3. The Department is the agency in the State of Nebraska authorized to enforce the provisions of the Uniform Credentialing Act regulating the practice of nursing.
4. The Nurse Licensure Compact authorizes the Department to discipline the multistate nurse licensure privilege of the Defendant to practice in the State of Nebraska in accordance with Neb. Rev. Stat. § 38-196 (Reissue 2008).
5. The Nebraska Board of Nursing considered the investigation of this matter and made a disciplinary recommendation to the Attorney General, which

recommendation has been considered. Such matters are privileged pursuant to Neb. Rev. Stat. §§ 38-1,105 and 38-1,106 (Reissue 2008).

6. The Defendant has been employed as a full-time nurse at Bellevue Health and Emergency Clinic, Inc. (hereinafter "the Clinic") in Bellevue, Nebraska since September 2009.

7. The Defendant has been the only nurse working in the Clinic since April 30, 2011. Prior to April 30, 2011, another registered nurse, S.H., also worked in the Clinic.

8. The Clinic maintains the following IV sedation standing order:

"IV sedation (To be given by Licensed Staff only)

- Versed 1 mg/mL – 2 mL IVP
- Fentanyl 50 mcg/mL – 2 mL (125 mcg)
- For patient under 120 pounds the meds will be decreased to: Versed – 1.5 mL and Fentanyl 1.5 mL
- For patients under 100 pounds the meds will be decreased to: Versed – 1 mL and Fentanyl 1 mL."

9. The Defendant informed a Department investigator that she is responsible for administering IV sedation medication during abortion procedures.

10. The Clinic maintains the following standing order for Pitocin IV 10 units/cc:

"For Patients with 15 – 21.6 week gestation – One hour prior to delivery, 1000 cc IV fluid with 30u of Pitocin added will be started and ran at a rate of 30 ggts per minute."

11. On March 31, 2012, Patient #1 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Chart order: Titrate to comfort with ½ mL Fentanyl and ½ mL Versed q 15 min prn;
- b. Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 947;

- c. Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 1246;
- d. Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 1249;
- e. Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 1300;
- f. Defendant documented administering D5%LR with 50 units Pitocin; Defendant did not record the time of administration.

12. On March 16, 2012, Patient #2 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Patient weighs less than 120 pounds;
- b. Defendant documented administering Versed (1 mg/mL) 2.0 and Fentanyl (50 mcg/mL) IVP 2.0 at 1144.

13. On March 15, 2012, Patient #3 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Defendant documented administering Versed (1 mg/mL) 2.0 at 1115 and Fentanyl (50 mcg/mL) IVP 2.0 at 1115;
- b. Defendant documented administering Versed (1 mg/mL) 1.0 and Fentanyl (50 mcg/mL) IVP 1.0 at 1119.

14. On April 8 and 9, 2011, Patient #4 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. 4/9/11: Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 942;
- b. 4/9/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 943;
- c. 4/9/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV at 956.

15. On April 1 and April 2, 2011, Patient #5 underwent a surgical abortion procedure at the Clinic. The treatment record includes the following information:

- a. 4/2/11: Defendant documented administering D5LR with 40 units Pitocin at 1254;
- b. 4/2/11: Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 1222;
- c. 4/2/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 1233;
- d. 4/2/11: Defendant documented administering Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 1235;
- e. 4/2/11: Defendant documented administering Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 1245;
- f. 4/2/11: Defendant documented administering Fentanyl (50 mcg/mL) 1.0 IV at 1252.

16. On April 2, 2011, Patient #6 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Chart order: Titrate to comfort with .5 mL Fentanyl and/or .5 mL Versed q 15 min prn;
- b. Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 1055;
- c. Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 1415;
- d. Defendant documented administering Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 1420;
- e. Defendant documented administering Versed (1 mg/mL) 1.0 IV at 1424;
- f. Defendant documented administering Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 1430;
- g. Defendant documented administering Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 1432;

17. Between February 26 and 27, 2011, Patient #7 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. 2/27/11: Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 836;
- b. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 902;
- c. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV at 910;
- d. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 929;
- e. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 958;
- f. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 1026;
- g. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 1045
- h. 2/27/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV at 1047;
- i. Defendant documented administering D5LR #2 with 30 units Pitocin IV. The Defendant did record the time of administration.

18. On February 26 and 27, 2011, Patient #8 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. 2/27/11: Defendant administered Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 756.

19. On February 13, 2011, Patient #9 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 1013;
- b. Defendant documented administering Versed (1 mg/mL) 1.0 IV at 1020;
- c. Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 1029.

20. On February 3 and 4, 2011, Patient #10 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Chart order (2/4/11): titrate to comfort ½ mL Fentanyl and ½ mL Versed q 15 min prn;
- b. 2/4/11: Defendant documented administering Versed (1mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 938;
- c. 2/4/11: Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 1253;
- d. 2/4/11: Defendant documented administering Versed (1 mg/mL) .5 IV and Fentanyl (50 mcg/mL) .5 IV at 1301;
- e. 2/4/11: Defendant documented administering Versed (1 mg/mL) 1.0 IV at 1306.

21. On January 30, 2011, Patient #11 underwent a surgical abortion procedure at the Clinic. The patient's medical record includes the following information:

- a. Defendant documented administering Versed (1 mg/mL) 2.0 IV and Fentanyl (50 mcg/mL) 2.0 IV at 758;
- b. Defendant documented administering Versed (1 mg/mL) 1.0 IV at 810;
- c. Defendant documented administering Versed (1 mg/mL) 1.0 IV and Fentanyl (50 mcg/mL) 1.0 IV at 832;
- d. Defendant documented administering Fentanyl (50 mcg/mL) 1.0 IV below the 832 entry but did not include an administration time.

22. Medication aides and/or patient care technicians staff the Clinic's abortion procedure recovery room. Recovery room staff duties include, but are not limited to, obtaining vitals, checking perineal pads, ambulating patients and providing post op education/instructions. S.H. informed a Department investigator that a licensed health care provider is not present in the recovery room unless there are difficulties with a patient. The Defendant informed a Department investigator that she is in charge of the Clinic staff.

23. The Defendant did not meet the acceptable standard of care for a registered nurse licensed in the State of Nebraska based on the following:

- a. Defendant delegated complex nursing care to unlicensed staff;
- b. A registered nurse may not delegate complex nursing care to unlicensed staff;
- c. Recovery room care for surgical abortion patients in the Clinic is complex nursing care.

24. The Defendant violated the scope of practice for a registered nurse by:

- a. Changing the Pitocin dose set out in the Clinic's standing order without obtaining a new order;
- b. Administering Versed and Fentanyl using standing orders which do not include an administration frequency;
- c. Failing to follow Versed and Fentanyl administration frequencies included in medical record chart orders.
- d. Failing to follow the dosage amounts in the IV sedation standing order.

FIRST CAUSE OF ACTION

25. Paragraphs 1 through 24 are incorporated herein by reference.

26. Neb. Rev. Stat. § 38-178(6)(b) (Reissue 2008) provides that a professional credential may be disciplined for practice of the profession beyond its' authorized scope.

27. The Defendant's act of changing the Pitocin dose set out in the Clinic's standing order without obtaining a new order violates the scope of practice for a registered nurse and is grounds for discipline.

SECOND CAUSE OF ACTION

28. Paragraphs 1 through 24 are incorporated herein by reference.

29. Neb. Rev. Stat. § 38-178(6)(b) (Reissue 2008) provides that a professional credential may be disciplined for practice of the profession beyond its' authorized scope.

30. The Defendant's act of administering Versed and Fentanyl without an ordered administration frequency violates the scope of practice for a registered nurse and is grounds for discipline.

THIRD CAUSE OF ACTION

31. Paragraphs 1 through 24 are incorporated herein by reference.

32. Neb. Rev. Stat. § 38-178(6)(b) (Reissue 2008) provides that a professional credential may be disciplined for practice of the profession beyond its' authorized scope.

33. The Defendant's act of failing to follow Versed and Fentanyl administration frequencies included in medical record chart orders violates the scope of practice for a registered nurse and is grounds for discipline.

FOURTH CAUSE OF ACTION

34. Paragraphs 1 through 24 are incorporated herein by reference.

35. Neb. Rev. Stat. § 38-178(6)(b) (Reissue 2008) provides that a professional credential may be disciplined for practice of the profession beyond its' authorized scope.

36. The Defendant act of failing to follow the dosage amounts in the IV sedation standing order violates the scope of practice for a registered nurse and is grounds for discipline

FIFTH CAUSE OF ACTION

37. Paragraphs 1 through 24 are incorporated herein by reference.

38. Neb. Rev. Stat. § 38-178(6)(d) (Reissue 2008) provides that a professional license may be disciplined for practice of the profession in a pattern of incompetent or negligent conduct.

39. The Defendant's conduct set forth above in paragraphs 1 through 22 constitutes a pattern of negligent conduct which is grounds for discipline.

SIXTH CAUSE OF ACTION

40. Paragraphs 1 through 24 are incorporated herein by reference.

41. Neb. Rev. Stat. § 38-178(10) (Reissue 2008) provides that a professional credential may be disciplined for "permitting, aiding and abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so."

42. The Defendant's delegation of complex nursing care to unlicensed Clinic staff is grounds for discipline.

SEVENTH CAUSE OF ACTION

43. Paragraphs 1 through 24 are incorporated herein by reference.

44. Neb. Rev. Stat. § 38-178(15) (Reissue 2008) provides that a professional credential may be disciplined for “violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession.

45. Title 172 NAC 99-004.01C(2)(a)(2f) of the Regulations Governing the Provisions of Nursing Care provides that a registered nurse may not delegate treatments which are complex interventions.

46. The Defendant’s delegation of complex nursing care to unlicensed Clinic staff constitutes a violation of the Regulations Governing the Provisions of Nursing Care which is grounds for discipline.

EIGHTH CAUSE OF ACTION

47. Paragraphs 1 through 24 are incorporated herein by reference.

48. Neb. Rev. Stat. § 38-178(23) (Reissue 2008) provides that a professional credential may be disciplined for unprofessional conduct.

49. Neb. Rev. Stat. § 38-179 (Reissue 2008) defines unprofessional conduct as “...any departure or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, or the conduct is likely to deceive or defraud the public or is detrimental to the public interest, including but not limited to...(10) Failure to keep and maintain adequate records of treatment or service.”

50. The Defendant’s failure to document Fentanyl and Pitocin administration times constitutes unprofessional conduct which is grounds for discipline.

NINTH CAUSE OF ACTION

51. Paragraphs 1 through 24 are incorporated herein by reference.

52. Neb. Rev. Stat. § 38-178(23) (Reissue 2008) provides that a professional credential may be disciplined for unprofessional conduct.

53. Neb. Rev. Stat. § 38-179 (Reissue 2008) defines unprofessional conduct as "...any departure or failure to conform to the standards of acceptable and prevailing practice of a profession of the ethics of the profession, regardless of whether a person, consumer, or entity is injured, or the conduct is likely to deceive or defraud the public or is detrimental to the public interest, including but not limited to...(15) such other acts as may be defined in rules and regulations."

54. Title 172 NAC 1201-007.03 of the Regulations Governing the Practice of Nursing defines unprofessional conduct as:

(1) Failure to utilize appropriate judgment in administering safe nursing practice based upon the level of nursing for which the individual is licensed;

(10) Committing any act which endangers patient safety or welfare.

55. The Defendant's conduct set forth above in paragraphs 1 through 22 constitutes unprofessional conduct which 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 the Plaintiff.