

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

JUN 2 1995

**KANSAS STATE BOARD OF
HEALING ARTS**

In the Matter of)
)
SHIRLEY A. BERNHARDT, R.T.)
Kansas Registration No. 16-00777)
_____)

Case No. 94-00232

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COMES NOW the Kansas State Board of Healing Arts ("Board") and Shirley A. Bernhardt, R.T. ("Registrant") and stipulate and agree as follows:

1. The Board is the sole and exclusive administrative agency in the State of Kansas statutorily authorized to regulate the practice of respiratory therapy pursuant to K.S.A. 65-5501 et seq.
2. Registrant was originally registered to practice respiratory therapy in the State of Kansas on August 15, 1987.
3. On March 30, 1995, the Board filed a Petition to Revoke, Suspend or Otherwise Limit Registrant's registration to practice respiratory therapy in the State of Kansas.
4. Information provided to the Board indicates Registrant may have committed acts which, if proven to be true, would constitute violations of the Respiratory Therapy Act, K.S.A. 65-5501 et seq. Specifically, Registrant may have failed to provide proper respiratory therapy care to patients GB and TG in violation of K.S.A. 65-5510(a)(2) as defined by K.A.R. 100-55-5(k) and K.S.A. 65-2837(a)(2). Registrant falsified the times she checked the mechanical respiratory ventilators in two patient charts in violation of K.S.A. 65-5510(a)(2) as defined by

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

Shirley A. Bernhardt, R.T.

K.A.R. 100-55-5(q). Finally, Registrant was counseled and suspended by Russell Regional Hospital in violation of K.S.A. 65-5510(a)(2) as defined by K.A.R. 100-55-5(i).

5. Under the provisions of K.S.A. 65-5516, the Board has jurisdiction to impose appropriate discipline if a registrant has engaged in any acts bringing the registrant within the purview of K.S.A. 65-5510(a).

6. It is the intent and purpose of this Stipulation to provide for settlement of all issues without the necessity of proceeding to a formal disciplinary hearing. Registrant voluntarily and affirmatively waives her right to a hearing under the Kansas Administrative Procedure Act, K.S.A. 77-501 et seq., pertaining to the above-noted matters under the jurisdiction of the Board regarding her registration to engage in respiratory therapy in the State of Kansas. Registrant voluntarily and knowingly waives her right to present a defense by oral testimony and documentary evidence, to submit rebuttal evidence, to conduct such cross-examination of witnesses as may be desired, and to waive any and all substantive procedural motions and defenses that could be raised if an administrative hearing were held.

7. The terms and conditions of this Stipulation are entered into between the parties to become an Order of the Board which shall not become binding on the Board until a Board-authorized signature is affixed on the last page of this document. Registrant acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

8. Registrant agrees this Stipulation and the filing of this document are in accordance with the requirements of law, that the Board has jurisdiction to consider this Stipulation and that the Board is lawfully constituted to consider this matter. Registrant further agrees the Kansas

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

Shirley A. Bernhardt, R.T.

Respiratory Therapy Act, K.S.A. 65-5501 et seq., as set forth by statute and as recited in this Stipulation, is constitutional on its face and as applied in this case.

9. In lieu of formal proceedings and/or findings by the Board, Registrant, by signature attached to this Stipulation, agrees to the following:

(a) Registrant agrees to accept a letter of reprimand concerning falsification of hospital patient records regarding the respiratory therapy care of two patients on May 5, 1993 and June 23, 1993.

(b) Registrant agrees to pay a \$100.00 administrative fine for falsification of hospital patient records regarding the respiratory therapy care of two patients on May 5, 1993 and June 23, 1993.

10. This Stipulation constitutes the entire agreement between the parties and may only be modified or amended by a subsequent document executed in the same manner by the parties.

11. This Stipulation is entered into freely and voluntarily and Registrant agrees she has read and understands this Stipulation.

12. Registrant releases the Board and its employees from all claims and demands of every kind and nature Registrant claims to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected. Registrant shall not commence to prosecute, cause or permit to be prosecuted any action or proceeding of any description against the Board or its employees arising out of acts leading to the execution of this Stipulation or the contents of this Stipulation.

13. Registrant understands and agrees this Stipulation shall be deemed a public record

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

Shirley A. Bernhardt, R.T.

only when fully executed by Registrant and the Board.

14. Nothing in this agreement shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Respiratory Therapy Act or to investigate complaints received under the Kansas Risk Management Law, K.S.A. 65-4921 et seq., whether unknown or not covered under the conditions of this Stipulation or past acts unknown to the Board or subsequent acts.

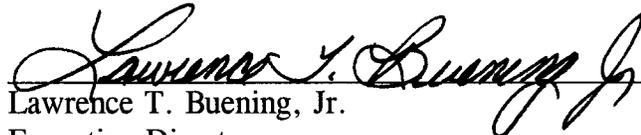
15. Upon execution of this Stipulation by the Board with a Board-authorized signature below, the provisions of this Stipulation shall constitute the Order of the Board when filed with the Office of the Executive Director of the Board.

IN WITNESS WHEREOF the parties have executed this agreement on this 21st day of July, 1995.

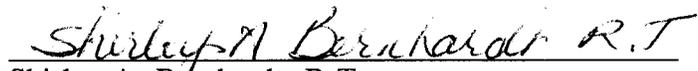
STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

Shirley A. Bernhardt, R.T.

KANSAS STATE BOARD OF HEALING ARTS

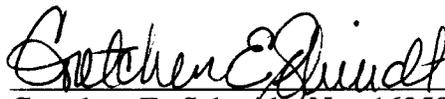

Lawrence T. Buening, Jr.
Executive Director

Date June 27, 1995


Shirley A. Bernhardt, R.T.
Registrant

Date 4.27.95

Prepared and Approved by:


Gretchen E. Schmidt, No. 16250
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068
(913) 296-2075

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

Shirley A. Bernhardt, R.T.

CERTIFICATE OF SERVICE

I, Lawrence T. Buening, Jr., Executive Director, certify that on this 27th day of June, 1995, a true and correct copy of the foregoing **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** was deposited in the United States mail, first class, postage prepaid, addressed to the following:

Shirley A. Bernhardt, R.T.
1010 Kilian
Russell, Kansas 67665

and a copy was hand-delivered to:

Kevin K. LaChance
Disciplinary Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068

and the original was hand-delivered to:

Office of the Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068


Lawrence T. Buening, Jr.