

**BEFORE THE KANSAS STATE BOARD OF NURSING**

Landon State Office Building, 900 S.W. Jackson #1051  
Topeka, Kansas 66612-1230

**IN THE MATTER OF  
LOU ANN WINCHESTER  
License No. 13-046960-081**

**Case No. 02-303-8  
OAH No. 06BN0011**

**CONSENT AGREEMENT AND FINAL ORDER**

NOW ON THIS 31<sup>st</sup> day of July, 2006, the Kansas State Board of Nursing, represented by Assistant Attorney General, Mark A. Knight, and the Respondent, Lou Ann Winchester, hereby enter into this agreement and proffer evidence and the hearing officer adopts those recommendations and makes the following findings of fact and orders:

**AGREED FINDINGS OF FACT**

1. Respondent's license to practice nursing in Kansas lapsed on or about 8/31/2003. On or about 11/28/05 the respondent made application for reinstatement of her Kansas nursing license. The Kansas State Board of Nursing (Board) has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent's address of record is 479 Republic Road, Lawrence, KS 66044.
3. The Respondent understands that pursuant to K.S.A. 77-515, respondent may be represented at respondent's expense by, an attorney during these proceedings.
4. After an investigation, the Board's investigative committee found reasonable grounds to believe that the respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1120, and referred this matter for further proceedings.
5. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 et seq. to examine, license and renew license for duly qualified applicants and may limit, deny, suspend or revoke a license or authorization to practice nursing, may issue a public or private censure and

levy administrative fines consistent with K.S.A. 74-1110, if a violation of K.S.A. 65-1120(a) is established.

6. (a) The respondent was employed as a nurse for Cardiovascular Consultants, P.A. (CC) from on or about 5/1/1990 to on or about 4/17/2002. During March and April of 2002 the CC office manager noted a decline in respondent's work habits. The office manager was advised during this time frame that the respondent was believed to have alcohol on her breath. Based on a prior agreement between the respondent and CC, the respondent submitted to two breath test on or about 4/17/2002. Both tests were positive for alcohol. Cardiovascular Consultants had in place a policy against having or being under the influence of intoxicating beverages while on CC premises. The respondent was terminated.

(b)

[REDACTED]

(c)

[REDACTED]

(d)

[REDACTED]

(e) On or about 8/31/2003 the respondent's nursing license lapsed. [REDACTED]

[REDACTED] On or about 11/28/05 the respondent made application for reinstatement of her Kansas nursing license.

7. The above incidents are violations of the nurse practice act. The respondent agrees that the board is prepared to prove that respondent has violated:

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)(6), unprofessional conduct by K.A.R. 60-3-110 (c), failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient; K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (s) failing to complete the requirements of the impaired provider program of the board.

8. Respondent has the right to a hearing with evidence and witnesses and to seek review of the findings from that hearing in accordance with the Kansas Administrative Procedure Act and the Act for Judicial Review and Civil Enforcement of agency actions. Respondent is waiving those rights and voluntarily entering into this agreement instead of proceeding to such a hearing.

#### **CONCLUSIONS OF LAW**

9. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 et seq. to examine, license and renew license for duly qualified applicants and may limit, deny, suspend or revoke a license or authorization to practice nursing, may issue a public or private censure and levy administrative fines consistent with K.S.A. 74-1110, if a violation of K.S.A. 65-1120(a) is established.

10. Respondent has violated the Kansas Nurse Practice Act as follows:

Count 1: K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol.

Count 2: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (c), failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient.

Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (s) failing to complete the requirements of the impaired provider program of the board.

#### POLICY STATEMENT

11. The role of the Kansas State Board of Nursing is to protect citizens of Kansas.

#### DISPOSITION

12. By entering into this Consent Agreement and consenting to the entry of the Final Order, both parties waive their right to full administrative proceedings pursuant to K.S.A. 65-1120(b) and K.S.A.77-501 et seq. and to judicial review.

13. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that this Consent Agreement will continue through any renewal periods of respondent's nursing license until respondent completes each of the conditions and requirements of this agreement. **Upon the parties entering into this Consent Agreement and with the respondent having met all statutory requirements for reinstatement of respondent's Kansas Nursing license, and the respondent has entered the Kansas Nurses Assistance Program (KNAP) and remained compliant in the KNAP program for three months, the respondent's application for reinstatement of respondent's Kansas Nursing license will be granted.** Said license will be suspended, designated on the license with an "S" but such suspension shall be stayed and respondent will be allowed to practice under the following conditions:

(a) **Respondent shall receive a license card which shall be issued with an "S" placed in the status code portion of the license card to indicate that the license is**

suspended. The suspension will be stayed as long as requirements within this agreement are met.

(b) **Respondent will participate in and complete the reasonable recommendations and requirements of the Kansas Nurses Assistance Program (KNAP);** sign releases of information necessary for KNAP to evaluate and monitor respondent and for KNAP to report information to the board. Respondent will be deemed to have completed the KNAP program when KNAP issues written notification that respondent has completed the program. Noncompliance with KNAP is a violation of this agreement.

(c) **Respondent must submit to random alcohol/drug screens as determined or selected by the Board or by KNAP.** The costs of the alcohol/drug screens will be paid by the respondent. **Respondent agrees that a Positive Alcohol/Drug Screen is a violation of this agreement.**

(d) **Respondent shall immediately notify the Legal Division of any use of alcohol, if prohibited by KNAP, or controlled substances, or any violation of this Consent Agreement and Final Order.**

(e) **The respondent shall immediately inform all employers and prospective employers of this Consent Agreement and the Final Order.**

(f) **Respondent shall send a money order for \$70 to the Board upon entering into this agreement to pay the cost of this action.**

(g) Respondent shall **not violate the Kansas Nurse Practice Act** during the duration of this agreement.

(h) Respondent shall **not violate the laws of the United States, of State, or of any political subdivision of any State during the term of this agreement.** Traffic infractions shall not be considered violations of the law.

(i) Respondent agrees to **notify the Legal Division of any changes in address and phone number as well as all employment terminations or employer changes or**

**additions.** All such notifications shall be made in writing within fourteen (14) days of such a change.

(j) **Respondent is responsible for the costs related to satisfying these conditions and requirements.**

14. If respondent does not meet these requirements, then Kansas State Board of Nursing may request additional sanctions against respondent's license or application for a license. Respondent would be sent notice of such action and would be entitled to a hearing as to whether respondent had complied with this agreement, but respondent could not contest the violations listed in this agreement.

15. The Board will inactivate this case file once respondent satisfies this agreement. This agreement does not prohibit the agency from taking disciplinary action against respondent's license for any additional or cumulative violation of the Nurse Practice Act committed by the respondent before or after this agreement is entered into.

16. This agreement is a contract entered into by the parties to resolve a reinstatement case. The original of this agreement shall be placed in the Agency Record and is a public record.

17. By signing this Consent Agreement, respondent acknowledges that respondent has read and understands the entire document, and agrees to be bound by its terms. This Consent Agreement constitutes the entire agreement of the parties and may not be modified except in writing and approved by all parties.

18. After successful completion of all of the requirements of this Consent Agreement by the respondent, the Consent Agreement will be satisfied and the case will be inactivated.

19. The hearing/presiding officer whose signature appears below has been designated pursuant to K.S.A. 77-514 and K.S.A. 77-526 to act on behalf of the Board/agency head and to hear discipline cases on behalf of the Board/agency head and to render either initial orders or final orders, if by agreement of both parties, in those discipline cases.

IN WITNESS WHEREOF, the parties hereto execute this CONSENT AGREEMENT  
AND FINAL ORDER.

**IT IS SO ORDERED.**

Lou Ann Winchester must sign before a Notary Public.

Lou Ann Winchester  
Respondent  
479 Republic Road  
Lawrence, KS 66044

State of Kansas, County of Douglas ss.

SUBSCRIBED AND SWORN TO before, me by Lou Ann Winchester

on this 26<sup>th</sup> day of July, 2006.

Signature of Notary Public

My Commission Expires

2/2/08

(Notary Public Seal)




Mark A. Knight, #12183  
Assistant Attorney General  
Landon State Office Building  
900 SW Jackson #1051  
Topeka, KS 66612-1230

Sandra L. Sharon, Presiding Officer

CERTIFICATE OF SERVICE

On the 2<sup>nd</sup> day of August, 2006, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Lou Ann Winchester  
479 Republic Road  
Lawrence, KS 66044

  
Mark A. Knight, #12183  
Assistant Attorney General