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**BEFORE THE KANSAS STATE BOARD OF NURSING**

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

**IN THE MATTER OF  
SHELLIE K. ESCH  
License No. 13-060267-052**

**Case No. 03-478-5**

**CONSENT AGREEMENT AND FINAL ORDER**

NOW ON THIS 27<sup>th</sup> day of December, 2006, the Kansas State Board of Nursing, represented by Assistant Attorney General, Mark A. Knight, and the Licensee, Shellie K. Esch, 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. Licensee is licensed to practice nursing in Kansas. The Kansas State Board of Nursing (Board) has jurisdiction over the Licensee and the subject matter of this action.
2. Licensee's address of record is 2302 South Waco St., Wichita, KS 67216 <sup>163</sup>
3. The Licensee understands that pursuant to K.S.A. 77-515, Licensee may be represented at Licensee's expense by, an attorney during these proceedings.
4. After an investigation, the Board's investigative committee found reasonable grounds to believe that the Licensee 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 is established.
6. (a) On or about 7/28/03 the Licensee tested positive for methamphetamine and marijuana in a pre-employment drug screen.

(b) On or about April 11, 2005 a Diversion Agreement bearing the Licensee's signature was filed in order to resolve the above captioned case.

(c) Licensee agreed in the Diversion Agreement to follow recommendations and requirements of [REDACTED] Licensee is currently noncompliant [REDACTED]

7. The above incidents are violations of the nurse practice act. The Licensee agrees that the board is prepared to prove that Licensee has violated: 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. K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol.

8. Licensee 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. Licensee 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 is established.

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

Count 1: 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.

Count 2: K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol.

**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 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 Licensee's nursing license until Licensee completes each of the conditions and requirements of this agreement. The Licensee's license to practice nursing in Kansas is immediately suspended. The suspension will be stayed as long as the requirements and conditions of this agreement are met.

14. Upon the parties entering into this Consent Agreement and with the Licensee having met all statutory requirements for renewal of Licensee's Kansas Nursing license, the Licensee's application for renewal of Licensee's Kansas Nursing license will be granted.

15. The Kansas State Board of Nursing will not take additional disciplinary action against Licensee's nursing license for the violations stated above as long as Licensee completes each of the following conditions and requirements:

(a) Licensee 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. Licensee shall return his or her current license cards to the Board with this Consent Agreement.

(b) Licensee will participate in and complete the reasonable recommendations and requirements of the [REDACTED] sign releases of information necessary for [REDACTED] to evaluate and monitor Licensee and for [REDACTED] to report

*7 already done see 12/15/06*

*Josh 12-8-06*

information to the board. Licensee will be deemed to have completed the [REDACTED] when [REDACTED] issues written notification that Licensee has completed the program. Noncompliance with [REDACTED] is a violation of this agreement.

(c) **Licensee must submit to random drug screens as determined or selected by the Board or by [REDACTED]. The costs of the drug screens will be paid by the Licensee.** Licensee agrees that a Positive Drug Screen is a violation of this agreement.

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

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

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

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

(i) **Licensee 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.

(h) **Licensee 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.

16. Licensee is responsible for the costs related to satisfying these conditions and requirements.

17. If Licensee does not meet these conditions and requirements, the Kansas State Board of Nursing may request additional sanctions against Licensee's license or application for a license. Licensee would be sent notice of such action and would be entitled to a hearing as to whether

Licensee had complied with this Consent Agreement, but Licensee could not contest the violations listed in this agreement.

18. All parties understand that if an action based on failure to meet the conditions and requirements of this Consent Agreement is filed, K.S.A. 77-531 requires the Notice of Hearing to be served upon the Licensee and the Licensee's attorney of record, if any. All parties agree that only serving the Notice of Hearing upon the Licensee will be proper service and it is the Licensee's responsibility to contact his or her attorney, if any, in reference to the action.

19. Licensee acknowledges and agrees that upon a finding of Licensee not complying with the conditions or requirements of this Consent Agreement, the Stay of Suspension of Licensee's license to practice nursing in the State of Kansas, shall be lifted. Licensee will not be allowed to practice nursing in the state of Kansas during the period the Stay is lifted.

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

21. This agreement is a discipline and must be reported on any future renewal applications. This agreement is a contract entered into by the parties to resolve an investigative case. The original of this agreement shall be placed in the Agency Record and is a public record.

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

23. After successful completion of all of the conditions and requirements of this Consent Agreement by the Licensee, the Consent Agreement will be satisfied and the case will be inactivated.

24. 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.

X [Redacted Signature]

Shellie K. Esch  
Licensee  
2302 South Waco St.  
Wichita, KS 67216

Shellie K. Esch must sign before a Notary Public.

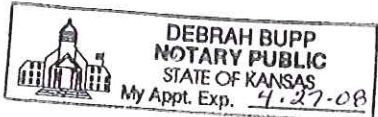
State of Kansas, County of SG ss.  
SUBSCRIBED AND SWORN TO before, me by Shellie K. Esch

on this 29 day of OCT., 2006.

*Debrah Bupp*

Signature of Notary Public

My Commission Expires 4-27-08  
(Notary Public Seal)



[Redacted Signature]

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

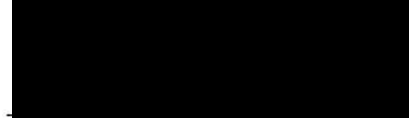
[Redacted Signature]

Terry E. Beck, Hearing Officer

CERTIFICATE OF SERVICE

On the 27<sup>th</sup> day of December, 2006, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Shellie K. Esch  
2302 South Waco St.  
Wichita, KS 67216



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Assistant Attorney General  
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