

**BEFORE THE KANSAS STATE BOARD OF NURSING**

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

**FILED**  
**OCT 12 2007**  
**KSBN**

**IN THE MATTER OF**  
**DEANNA B. SHERRILL**  
**License No. 13-071053-012**

**Case No. 06-963-4**  
**OAH No. 07BN0029**

**CONSENT AGREEMENT AND FINAL ORDER**

NOW ON THIS 12<sup>th</sup> day of Oct, 2007, the Kansas State Board of Nursing, represented by Assistant Attorney General, Mark A. Knight, and the Respondent, Deanna B. Sherrill, 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 is licensed to practice nursing in Kansas through 1/31/2008. 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 R R 1 Box 1, Jetmore, KS 67854.
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 is established.
6. (a) Kansas State Board of Nursing investigative case number 01-515-1 revealed that on or about 8/2/01 the Hodgeman County Health Center LTC terminated the Respondent due to

suspicion that Percocets were missing. The Respondent admitted to "borrowing" some Lortabs from one patient, to provide them to another patient. In Dodge City, criminal charges were against the Respondent resulting in a diversion of case 01CR236 in Ford County. The Respondent admitted in the criminal diversion that she forged a prescription for Xanax and Lortab from a local doctor on or about January 15, 2001.

(b) On or about 4/28/2004, Respondent entered a diversion agreement with the Kansas State Board of Nursing to resolve case number 01-515-1. On or about May of 2006, Respondent successfully completed the diversion agreement in case number 01-515-1.

(c) On or about 9/29/2006, Respondent was working as a registered nurse at Kiowa County Memorial Hospital, Greensburg, KS on the 7:00 PM to 7:00 AM shift. On or about 9/29/2006 Respondent went to the facility pharmacy and requested Lortab 7.5mg from M. Star in the facility pharmacy. M. Star provided the Lortab 7.5mg to Respondent. During the early morning hours of 9/30/2006, Respondent returned the package of Lortabs 7.5mg and advised they were mislabeled.

(d) On or about 9/30/2006 during the AM, Respondent returned to the facility pharmacy and requested Lortab 5mg and Xanax from S. West. S. West provided the Lortab 5mg and Xanax to Respondent. S. West called the Behavioral Unit (BHU) where Respondent was assigned. S. West asked if BHU needed Lortab 7.5mg since Respondent had returned the package earlier and stated it was mislabeled. S. West was advised that there were no residents on BHU that required Lortab 7.5mg. Upon further review of the package Respondent advised was mislabeled, the facility pharmacy staff found that the Lortab had been replaced with Tylenol.

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)(6), unprofessional conduct by K.A.R. 60-3-110 (n), diverting drugs, supplies, or property of any patient or agency; K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(3), a

pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

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 is established.

10. Respondent 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 (n), diverting drugs, supplies, or property of any patient or agency.

Count 2: K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

### **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 respondent's nursing license until respondent completes each of the conditions and requirements of this agreement. Further, the parties agree that in the event of a lapse of Respondent's nursing license, reinstatement of Respondent's nursing license shall be contingent upon this Consent Agreement and Final Order remaining in effect until Respondent completes each of the conditions and requirements of this agreement.

14. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the Respondent's license to practice nursing in Kansas is immediately suspended. **The Respondent's license to practice nursing in Kansas will remain suspended for 90 days from the effective date of this consent agreement and final order.** Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension. **Following the period of suspension, the suspension will be stayed and Respondent will be allowed to practice under the conditions and limitations listed below.**

15. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the Respondent's license to practice nursing in Kansas is immediately limited. The limitations placed on the license and described below will remain in place until the requirements and conditions of this agreement are met or until the requirements and conditions of this agreement call for the modification of the limitations.

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

(a) **Respondent shall return his or her current license card to the Board with this Consent Agreement. 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 card will have an "L" indicating the limitations on the practice.

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

(c) Respondent 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 respondent. Respondent agrees that a Positive Drug Screen is a violation of this agreement.

(d) Respondent shall not practice without onsite supervision by a qualified nurse, for a period of one year from the date that the period of suspension provided in this Consent Agreement and Final Order is stayed. The parties agree that this provision prohibits the Respondent from practicing nursing unless the supervising nurse is present within the same facility as the Respondent and the supervising nurse is available for periodic inspection of Respondent's nursing tasks.

(e) Respondent 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.

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

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

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

(i) 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.

(k) **Respondent will Submit Reports from the Respondent's employer to the attention of the Legal Division, Kansas State Board of Nursing, Landon State Office Building, 900 S.W. Jackson, Suite 1051, Topeka, Kansas 66612-1230 on the following schedule:** Following the period of suspension provided in this Consent Agreement and Final Order, a nursing performance report is due by the 10th day of every third Month until Respondent has caused the submission of four (4) separate nursing performance reports. The report shall be prepared and signed by Respondent's immediate supervisor or by an R.N. who evaluates Respondent's performance on a regular basis and be based on the following guidelines: (1) Incorporation of information on facility letterhead stationary is preferred. (2) Letter format is acceptable, with the date of the report identified. (3) Evaluator's name, telephone number, address, license number and nursing credentials. (4) Respondent's name, address, telephone number, license number. (5) A short explanation of the Respondent's work performance in the following areas: (a) Standards met regarding facility policies and procedures. (b) Compliance with the Kansas Nurse Practice Act. (c) Supervisor evaluations. (d) Overall appropriateness. (e) Interactions with patients. (f) Interactions with staff and administration.

(l) **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.

17. Respondent acknowledges and agrees that Respondent is responsible for the costs related to satisfying the conditions and requirements of this Consent Agreement. Respondent

further acknowledges and agrees that to provide the Board with false information regarding compliance with this Consent Agreement is a violation of this Consent Agreement.

18. If Respondent does not meet these conditions and requirements, the 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 Consent Agreement, but Respondent could not contest the violations listed in this agreement.

19. 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 Respondent and the Respondent's attorney of record, if any. All parties agree that only serving the Notice of Hearing upon the Respondent will be proper service and it is the Respondent's responsibility to contact his or her attorney, if any, in reference to the action.

20. Respondent acknowledges and agrees that upon a first finding of Respondent not complying with the conditions or requirements of this Consent Agreement, the Stay of Suspension of Respondent's license to practice nursing in the State of Kansas, shall be lifted for a period of six months from the date of said finding. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension.

21. Respondent acknowledges and agrees that upon a second or subsequent finding of Respondent not complying with the conditions or requirements of this Consent Agreement the Stay of Suspension of Respondent's license to practice nursing in the State of Kansas, shall be lifted for a period of one year from the date of said finding. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension.

22. Respondent acknowledges and agrees that upon the Stay of Suspension being lifted due to a finding of non-compliance with this Consent Agreement, the Suspension will not again be Stayed until the Respondent has, following the prescribed time period of suspension,

provided written verification to the Board that Respondent is in compliance with all conditions and requirements of this Consent Agreement. Upon the Respondent providing said written verification the suspension will again be stayed.

23. 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 Kansas Nurse Practice Act committed by the Respondent before or after this agreement is entered into.

24. This agreement is a discipline and must be reported on any future renewal or reinstatement 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.

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

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

27. 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  
Deanna B. Sherrill  
Respondent  
R R 1 Box 1  
Jetmore, KS 67854

*ell*  
Deanna B. Sherrill must sign before a Notary Public.

State of Kansas, County of Hodgeman ss.  
SUBSCRIBED AND SWORN TO before, me by Deanna B. Sherrill

on this 16<sup>th</sup> day of October, 2007.



*Stacy C. Olson*  
Signature of Notary Public

My Commission Expires 6-21-09  
(Notary Public Seal)


Mark A. Knight, #12183  
Assistant Attorney General  
Kansas State Board of Nursing  
Landon State Office Building  
900 SW Jackson #1051  
Topeka, KS 66612

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Sandra L. Sharon, Presiding Officer

CERTIFICATE OF SERVICE

On the 15<sup>th</sup> day of October, 2007, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Deanna B. Sherrill  
R R 1 Box 1  
Jetmore, KS 67854

  
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Mark A. Knight, #12183  
Assistant Attorney General  
Kansas State Board of Nursing  
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