

Rex G. Beasley #08777  
Assistant Attorney General  
Kansas State Board of Nursing  
Landon State Office Building  
900 SW Jackson, Suite 551-S  
Topeka, Kansas 66612-1230

BEFORE THE KANSAS STATE BOARD OF NURSING  
LANDON STATE OFFICE BUILDING  
900 S.W. JACKSON, #551-S  
TOPEKA, KANSAS 66612-1230  
(785) 296-8401

IN THE MATTER )  
 )  
OF ) Case No: 97-0185-8  
 )  
HOLLY BRIMAN )  
LICENSE NO. 13-053995-122 )

**FINAL ORDER**

ON THE 7<sup>th</sup> day of January, 1999 this matter came on for hearing before Terry E. Beck the Board's designated Hearing Officer. The Respondent appeared by and through her attorney Nancy Freund. The Kansas State Board of Nursing appeared by and through Assistant Attorney General Rex G. Beasley, Disciplinary Counsel for the Board.

THEREUPON the parties announced that they have entered into a Consent Agreement which is attached hereto. The parties requested that the Consent Agreement be approved and that this Final Order be entered.

THEREUPON the Hearing officer made the following fact, and conclusions of law, and entered the following Final Order:

1. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter.

2. Respondent was licensed to practice as a registered nurse (R.N.) in the State of Kansas having been issued license number 13-053995-122, with an expiration date of December 31, 1998. Respondent timely filed a renewal application.

3. By her own admission, Respondent is a drug addict and an alcoholic, and diverted i.e. stole morphine from her employer and patients for her personal use.

4. The following facts are found to be true:

a. On or about March 6, 1997 Respondent was terminated by her employer following an investigation into her medication administration practices which revealed, among other things, a violation of hospital policy concerning administration of narcotics and that Respondent was performing acts beyond the authorized scope of her license.

b. Respondent's employer discovered that for a period of time Respondent had administered almost 80% of the Morphine administered on her unit. Administering medications was not a major part of Respondent's position description or performance expectations.

c. The investigation also discovered that Respondent was not preparing appropriate documentation on what medications were given, when it was given, who it was given to, or the effect of the medication on the patient.

d. Respondent would withdraw medication for a patient, claim that an error was made, claim to have wasted the medication and then promptly withdraw the same medication (type and quantity) supposedly for the same patient. Respondent did not follow policies and procedures for handling and wasting narcotics. Said policies and procedures were designed to protect patients.

e. Respondent inaccurately recorded information in, and falsified patient and hospital records.

f. Respondent would frequently administer narcotics or other medication (or appear to have done so) to patients who were not her responsibility without telling the nurses who were responsible for the patients, and without properly recording her activities.

g. The Board also alleged that Respondent has a reputation for being a drug abuser, and that Respondent was suspected of diverting i.e. stealing some of the narcotics from her employer and patients for her own use.

h. The results of her employer's investigation was turned over to the employer's security department which conducted an interview of Respondent. Respondent gave a written statement on February 28, 1997, a copy of which is attached to the petition and hereto as exhibit A. That statement was freely and voluntarily made by Respondent without coercion or threats by anyone. By her own admissions Respondent repeatedly, and consistently violated doctors' orders by, knowingly, intentionally, and willfully administering overdoses of drugs to patients. Respondent consistently gave patients twice the amount of drugs amounts ordered by the doctors, and sometimes three times the amount ordered.

5. Respondent now claims that her written statement she gave her employer on February 28, 1997 was false and was made with the deliberate attempt to cover up the fact that she is a drug addict and was stealing drugs for her own use.

6. Respondent's actions constitute violations of the Kansas Nurse Practice Act K. S. A. 65-1120(a)(1); K. S. A. 65-1120(a)(2); K. S. A. 65-1120(a)(3); K. S. A. 65-1120(a)(4); K. S. A. 65-

1120(a)(6); K. S. A. 65-1120(a)(7) and other applicable rules, regulations and guidelines, and the public's trust, for which she should be disciplined

7. In lieu of proceeding to a full administrative hearing, the parties entered into a Consent Agreement which is hereby approved.

8. Respondent is aware that she has certain rights in this matter which may include the right to a formal hearing; the right to see and hear the evidence against her and to cross-examine witnesses against her; the right to present witnesses and evidence on her behalf; and the right to seek reconsideration, review or appeal of the findings from the hearing in this matter. Respondent knowingly and intelligently waived, or gave up, her rights and entered into the Consent Agreement and consented to the entry of this Final Order to resolve this matter instead of proceeding to hearing.

9. By entering into the Consent Agreement and consenting to the entry of this Final Order, both parties waived their right to full administrative proceedings pursuant to K.S.A. 65-1120(b) and K.S.A. 77-5501 *et. seq.* and to judicial review.

10. Based upon the Respondent's claim that she has been rehabilitated, the stipulations and commitments of Respondent in the Consent Agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the Respondent's renewal application shall be granted and Respondent shall be granted a new license which will have an expiration date of December 31, 2000. However, the license will be immediately suspended and limited for the period of licensure. The suspension of Respondent's license will be stayed allowing Respondent to practice nursing subject to the following terms and conditions:

(a) Within 60 days of the date she signed the Consent Agreement, Respondent shall provide the Board with the evidence of a current evaluation for addictive behavior from a health care provider approved in advance by the Board's Practice Specialist. Respondent shall fully

cooperate with the evaluation and provide a full and honest history. Respondent must follow and successfully complete any treatment or counseling recommended. In the event the evaluation reveals that Respondent is currently addicted or does not otherwise have her addiction fully under control Respondent's license shall be revoked and Respondent shall surrender her license and consent to a Final Order revoking the license. Respondent shall provide the Board with copies of any future evaluations, and shall undergo any further evaluations requested by the Board. Respondent will advise the Board of the date of all evaluations and the name and address of the person doing the evaluation. Said notice will be given to the Board within 48 hours of the evaluation. Reports will be provided to the Board within 14 days of each evaluation.

(b) Respondent's must remain in the Kansas Nurses Assistance Program and comply with and remain compliant with all the recommendations and requirements of the program. It is the Respondent's obligation to meet all the requirements of the program. Respondent must follow and successfully complete any treatment or counseling recommended.

(c) Respondent must submit to random drug screens as determined or selected by the Board or by the Kansas Nurse Assistance Program. The costs of the drug screens will be paid by the Respondent. The drug screens must be random and meet all criteria established by the Board. The drug screens will be at least quarterly and may be more frequent as determined by the Kansas Nurses Assistance Program or the Board. The Board may select and approve the collector. The results of any drug screen specifically requested by the Board will be sent directly to the Board. A positive drug screen shall be deemed a violation of this agreement. Using products containing poppy seeds, hemp, alcohol, or other substances which can cause false positives shall not constitute an acceptable reason for having a positive drug screen. A urine specimen which is improperly given or with a creatinine of less than 20 mg/dl or which otherwise indicates that the specimen is diluted shall

be deemed to be a positive drug screen. Any drug screen sample which tests positive may be re-tested by Respondent pursuant to the following procedure. Respondent must exercise this option within 72 hours of notification to her of the positive test result. Notification to Respondent will be deemed to have been made when she is orally notified of the test result. Respondent must have an aliquot or portion of the original sample which tested positive sent directly from the original testing laboratory to a Nationally Accredited NIDA laboratory of Respondent's choice. All NIDA chain of custody, handling and testing procedures must be followed. The re-test will be only for the substance which was found positive in the original test. Respondent must make arrangements to have the re-test completed and the results sent directly from Respondent's testing laboratory to the Board within three weeks of notification to Respondent of the original positive result. The Board has no control over any laboratory which may do the original testing and therefore does not and can not insure or guarantee that the original testing laboratory will retain the original sample or a sufficient quantity of the original sample which can be properly re-tested. If Respondent does not notify the Board and the original testing laboratory, in writing, of her desire to have a sample re-tested within the time allowed or otherwise fails to follow the above procedure the Respondent's option to have the sample re-tested shall be deemed to be waived. If, after following the above procedure, Respondent's testing laboratory reports that its testing of the original sample was negative for the substance which originally was found positive, the question of whether the urine drug screen constitutes a violation of this Consent Agreement and the Final Order shall be determined at a hearing. The issue at the hearing shall be limited to whether, if after following all appropriate testing procedures, the original urine specimen was positive or negative for the substance which originally was found positive, and the burden of proof will be on the Board. Furthermore, in the event that both the original and any subsequent tests are positive, Respondent shall have the right

to request a hearing. The issues at such hearing shall be limited to whether the specimen tested was that of Respondent and if appropriate testing procedures were followed, and the burden of proof will be on the Respondent.

(d) Respondent shall abstain from the use of all alcohol, prescription drugs, and controlled substances except as prescribed for her, for a legitimate purpose, by a licensed medical provider from whom she seeks medical attention. Respondent shall inform all providers who authorize prescriptions for narcotics, habit forming substances, psychotropic medicines, or other mood altering drugs, or other pain relief for her of her dependency on controlled substances, and Respondent shall cause all such providers to submit written reports within ten (10) days of each prescription to the Board. The written reports shall identify the medication prescribed, the reason for the prescription, the dosage, the date of prescription, and the number of refills authorized. If Respondent accepts a prescription for narcotics, habit forming substances, psychotropic medicines, or other mood altering drugs, the Board may impose additional requirements or terms.

(e) Respondent shall immediately inform all employers, prospective employers, and the director of any nursing education program in which she enrolls or teaches, of the Consent Agreement and this Final Order. Within 14 days of the Consent Agreement and this Final Order, and within 14 days of any change of employment Respondent shall cause her employer to notify the Board in writing of the employer's receipt of copies of the Consent Agreement and this Final Order. If Respondent accepts employment with a nursing registry, a temporary nursing service or agency, a home health care service or agency, or as a private duty nurse she shall inform all persons for whom she provides nursing services of the Consent Agreement and this Final Order and cause them to notify the Board in writing of their receipt of copies of the Consent Agreement and this Final Order within 14 days as provided above. Respondent shall also cause her employer(s) to provide quarterly

reports for the period of her licensure. The reports shall be prepared by Respondent's immediate supervisor or by an R.N. who evaluates her performance on a regular basis. Such reports shall include information regarding attendance, performance and documentation. The quarterly reports shall be due, January 20, 1999, April 20, 1999, July 20, 1999, September 30, 1999, January 20, 2000, April 20, 2000, July 20, 2000, and September 30, 2000. Respondent's employer may submit copies of employee evaluations conducted during a quarter in lieu of a report for that quarter. These reports or evaluations shall be sent by the employer or person conducting the evaluation to the attention of the Board's Practice Specialist, Kansas State Board of Nursing, Landon State Office Building, 900 S.W. Jackson, Suite 551-S, Topeka, Kansas 66612-1230.

(f) Respondent shall comply with all laws and regulations governing the practice of nursing. Respondent shall also comply with all laws and regulations of the United States of America and its states. Minor traffic violations will not automatically be deemed a violation of the Consent Agreement or this Final Order. Depending on the circumstances, repeated minor traffic violations could, however, be evidence of a pattern and practice which may demonstrate a manifest incapacity to practice nursing. Traffic offenses involving drugs or alcohol are not minor traffic offenses and will be deemed to be a violation of the Consent Agreement and this Final Order.

(g) Respondent shall sign any release(s) necessary so that all, reports, tests, or evaluations may be forwarded to the Kansas State Board of Nursing to the attention of the Board's Practice Specialist. In addition, upon request the Respondent shall provide the Board with any release necessary to confirm that Respondent remains alcohol and drug free. The revocation of any release will be a breach of the Consent Agreement and this Final Order.

(h) Respondent shall regularly participate in AA and NA programs.



(i) Respondent shall notify the Board's Practice Specialist of the name of her employer and immediate supervisor within 14 days from the signing of the Consent Agreement and within 14 days of any change of employment or change in immediate supervisor.

(j) Respondent shall notify the Board's Practice Specialist of any changes in her name, address, and phone number as well as all employment terminations or employer changes or additions. All such notifications shall be made within 14 days of such a change.

(k) Respondent shall immediately notify the Board of any use of alcohol or controlled substances, or any violation of the Consent Agreement or this Final Order.

(l) Respondent shall receive a license card which shall be issued with an "S" and an "L" placed in the status code portion of the license card to indicate that action has been taken against her license.

(m) Respondent shall not, under any circumstances, misrepresent her licensure status.

(n) Respondent shall report in person for appointment with the Board staff upon request.

(o) Respondent shall not handle or administer narcotics, psychotropic medications, or other mood altering drugs, nor shall Respondent carry keys for, or have access to, storage areas where such substances are stored or kept, nor shall she be involved with retrieval of, or assist in the retrieval, of such substances from the pharmacy, nor shall she participate, directly, indirectly, or as a witness, in the destruction or wasting of such substances. Respondent will not write out or call in any prescriptions for narcotics, psychotropic medications or mood altering drugs. Provided, however, if the Kansas Nurses Assistance Program requires as a part of the program that

Respondent have key privileges Respondent may request a modification of the restrictions of this paragraph.

11. Any use by Respondent of alcohol or controlled substances, except as specifically allowed herein will not only be a violation of the Consent Agreement an this Final Order, but also independent grounds for additional discipline pursuant to K.S.A. 65-1120, and may, at the sole discretion of the Board, constitute conclusive and irrefutable proof that Respondent should not be licensed to practice nursing, and will justify immediate action to revoke or suspend Respondent's license to practice nursing. Within 48 hours of any request, Respondent will surrender her license to the Board if the Board, after any investigation, determines that Respondent has violated the terms and conditions of the Consent Agreement or this Final Order. If Respondent fails to surrender her license to the Board within 48 hours of a request as provided above, the Board will be authorized and justified in taking emergency action against her pursuant to K.S.A. 77-537. Furthermore, in the event the Board should move for an order revoking Respondent's license or lifting the stay the only issue will be whether Respondent has strictly complied with every term and condition of the Consent Agreement and this Final Order.

12. Any unsatisfactory reports from the Kansas Nurse Assistance Program, by Respondent's supervisor, or any reports of a reportable incident under Risk Management Law, or a violation of the Kansas Nurse Practice Act, or failure to comply with any of the conditions of the Consent Agreement and this Final Order may, at the sole discretion of the Board, constitute a breach of the Consent Agreement and this Final Order, and may result in further proceedings against Respondent under the Kansas Administrative Procedures Act.

13. Each and every condition outlined in the Consent Agreement and this Final Order is mandatory and if Respondent fails to meet any one of the conditions the Board will proceed to cause

a petition or other proceedings to be filed in this matter and that a full adjudicative proceeding will follow, as a result Respondent may be fined and her license may be denied, suspended, limited, revoked, pursuant to K.S.A. 65-1120 or K.S.A. 74-1110.

14. All stipulations, agreements and admissions made in the Consent Agreement are binding upon the Respondent in the event it is necessary to hold any further hearing in this or any other proceedings.

15. This is a disciplinary action and will be reported to the National Council of State Boards of Nursing data bank, and that pursuant to K.S.A. 45-215 *et seq.*, the signed original of this Consent Agreement and the Final Order shall remain in the custody of the Board as public records.

16. In deciding to enter into the Consent Agreement and to consent to this Final Order the Respondent relied upon her own knowledge and judgment and that of her attorney and did not rely on any statement, representation or promise from the Board or anyone acting on its behalf. Respondent entered into the Consent Agreement and consented to the entry of this Final Order freely, knowingly, and voluntarily, and without any coercion, pressure, or duress from the Board or anyone on its behalf.

17. The Consent Agreement will be subject to and governed by the laws of the State of Kansas.

18. Neither the Consent Agreement or this Final Order are intended to be, nor will they will operate as, a waiver or estoppel of the Board's right to take action against Respondent for any act or omission not specifically made a part of the Consent Agreement or this Final Order. Nothing in the Consent Agreement or this Final Order shall be construed to deny the Board jurisdiction to investigate and prosecute other alleged violations of the Nurse Practice Act regardless of when they occur(ed) or when called to the attention of the Board. Each and ever term and condition imposed in the

Consent Agreement and in this Final Order is mandatory and Respondent is required to comply with each and every one. An express or implied waiver of one or more conditions shall not operate as a waiver of any other nor constitute an estoppel or bar to the enforcement of any other term or condition of the Consent Agreement or this Final Order.

19. Respondent will be responsible for payment of any costs associated with compliance with the Consent Agreement and this Final Order, and that it is Respondent's responsibly to insure that all reports required to be submitted to the Board, including those from her employer or other third party, are submitted in a timely manner.


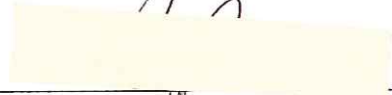
20. Respondent shall pay costs in the sum of \$35.00, and an administrative fine pursuant to K. S. A. 77-1110 of \$3,000.00. Said payment shall be made to the Board in cash or money order. The \$35.00 shall be paid in full within 60 days of the entry of this Final Order. The \$3,000.00 administrative fine shall be paid in full on or before Respondent December 31, 2000, and is a prerequisite to re-licensing.

21. Nothing contained in the Consent Agreement or this Final Order will grant Respondent any right to automatic license renewal.

22. The Consent Agreement constitutes the entire agreement of the parties and may not be modified except in writing and approved by all parties.

**IT IS SO ORDERED.**

Dated this 7<sup>th</sup> day of January, 1999

  
  
\_\_\_\_\_  
TERRY E. BECK<sup>(j)</sup>  
HEARING OFFICER

APPROVED:

[Redacted Signature]

NANCY FREUND  
Attorney for Respondent

DATE January 6, 1999

[Redacted Signature]

REX G. BEASLEY  
Assistant Attorney General  
Disciplinary Counsel

DATE January 7, 1999

CERTIFICATE OF SERVICE


I hereby certify that on the 8th day of January, 1999 I deposited a true and correct copy of the Consent Agreement and Final Order in the United States Mail, first class postage prepaid to the following:

Holly Briman  
2538 SW Stutley Court  
Topeka, Kansas 66614

Nancy E. Freund  
1611 SW 37th Street  
Topeka, Kansas 66611

and hand delivered a copy to

Rex G. Beasley  
Assistant Attorney General  
Kansas State Board of Nursing  
Landon State Office Building  
900 SW Jackson Suite 551-S  
Topeka, Kansas 66612-1230

  
\_\_\_\_\_  
Diane M. Glynn, J.D., R.N.  
Practice Specialist

Rex G. Beasley #08777  
Assistant Attorney General  
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IN THE MATTER )  
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OF ) Case No: 97-0185-8  
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HOLLY BRIMAN )  
LICENSE NO. 13-053995-122 )

**CONSENT AGREEMENT**

COME NOW the Petitioner, the Kansas State Board of Nursing, hereinafter referred to as the "Board", by and through Assistant Attorney General Rex G. Beasley, and the Respondent, Holly Briman personally and by and through her attorney Nancy Freund, with the intent and purpose of settling all issues currently before the Board without the necessity of a formal hearing, and respectfully request that the Board, or its designee, approve this Consent Agreement and enter the Final Order presented herewith as the resolution in this case.

**NATURE OF THE CASE**

Respondent was licensed to practice as a registered nurse (R.N.) in the State of Kansas having been issued license number 13-053995-122, with an expiration date of December 31, 1998. Respondent has filed an application for renewal of her license.

The pending disciplinary action involves allegations that Respondent has committed acts in violation of the Kansas Nurse Practice Act, K.S.A. 65-1113 *et. seq.* as follows:

a. On or about March 6, 1997 Respondent was terminated by her employer following an investigation into her medication administration practices which revealed, among other things, a violation of hospital policy concerning administration of narcotics and that Respondent was performing acts beyond the authorized scope of her license.

b. Respondent's employer discovered that for a period of time Respondent had administered almost 80% of the Morphine administered on her unit. Administering medications was not a major part of Respondent's position description or performance expectations.

c. The investigation also discovered that Respondent was not preparing appropriate documentation on what medications were given, when it was given, who it was given to, or the effect of the medication on the patient.

d. Respondent would withdraw medication for a patient, claim that an error was made, claim to have wasted the medication and then promptly withdraw the same medication (type and quantity) supposedly for the same patient. Respondent did not follow policies and procedures for handling and wasting narcotics. Said policies and procedures were designed to protect patients.

e. Respondent inaccurately recorded information in, and falsified patient and hospital records.

f. Respondent would frequently administer narcotics or other medication (or appear to have done so) to patients who were not her responsibility without telling



the nurses who were responsible for the patients, and without properly recording her activities.

g. The Board also alleged that Respondent has a reputation for being a drug abuser, and that Respondent was suspected of diverting i.e. stealing some of the narcotics from her employer and patients for her own use.

h. The results of her employer's investigation was turned over to the employer's security department which conducted an interview of Respondent. Respondent gave a written statement on February 28, 1997, a copy of which is attached to the petition and hereto as exhibit A. That statement was freely and voluntarily made by Respondent without coercion or threats by anyone. By her own admissions Respondent repeatedly, and consistently violated doctors' orders by, knowingly, intentionally, and willfully administering overdoses of drugs to patients. Respondent consistently gave patients twice the amount of drugs amounts ordered by the doctors, and sometimes three times the amount ordered.

The Board alleged that Respondent's actions constitute violations of the Kansas Nurse Practice Act K. S. A. 65-1120(a)(1); K. S. A. 65-1120(a)(2); K. S. A. 65-1120(a)(3); K. S. A. 65-1120(a)(4); K. S. A. 65-1120(a)(6); K. S. A. 65-1120(a)(7).

#### **STIPULATION OF FACTS AND AGREEMENT**

In lieu of proceeding to a full administrative hearing, the parties agree to enter into and be bound by the following admissions and stipulations, and this agreement.

1. Respondent now admits that she is a drug addict and an alcoholic, and that she diverted i.e. stole morphine from her employer and patients for her personal use.

2. Respondent admits that she gave the written the statement on February 28, 1997, in which she admitted to repeatedly, and consistently violating doctors' orders by, knowingly, intentionally, and willfully administering overdoses of drugs to patients -- consistently giving patients twice the amount of drugs ordered by the doctors, and sometimes three times the amount ordered. Respondent now states that her written statement was false and was made with the deliberate attempt to cover up the fact that she is a drug addict and was stealing drugs for her own use.

3. Respondent admits and stipulates that the allegations stated above in paragraphs a, b, c, d, e, f, g, and h are true, and that her conduct violated the Kansas Nurse Practice Act as alleged. Respondent claims however that no patient was actually harmed by her conduct.

4. Respondent claims to be currently participating in the Kansas Nurses Assistance Program and that she has been rehabilitated and is no longer addicted.

5. Respondent is aware that she has certain rights in this matter which may include the right to a formal hearing; the right to see and hear the evidence against her and to cross-examine witnesses against her; the right to present witnesses and evidence on her behalf; and the right to seek reconsideration, review or appeal of the findings from the hearing in this matter. Respondent knowingly and intelligently waives, or gives up, her rights and enters into this Consent Agreement to resolve this matter instead of proceeding to hearing.

6. 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. 77-5501 *et seq.* and to judicial review.

7. Based upon the Respondent's claim that she has been rehabilitated, this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that Respondent's renewal application shall be granted and Respondent shall granted a new license which

will have an expiration date of December 31, 2000. However, the license will be immediately suspended and limited for the period of licensure. The suspension of Respondent's license will be stayed allowing Respondent to practice nursing subject to the following terms and conditions:

(a) Within 60 days of the date she signs this Consent Agreement, Respondent shall provide the Board with the evidence of a current evaluation for addictive behavior from a health care provider approved in advance by the Board's Practice Specialist. Respondent shall fully cooperate with the evaluation and provide a full and honest history. Respondent must follow and successfully complete any treatment or counseling recommended. In the event the evaluation reveals that Respondent is currently addicted or does not otherwise have her addiction fully under control Respondent's license shall be revoked and Respondent shall surrender her license and consent to a Final Order revoking the license. Respondent shall provide the Board with copies of any future evaluations, and shall undergo any further evaluations requested by the Board. Respondent will advise the Board of the date of all evaluations and the name and address of the person doing the evaluation. Said notice will be given to the Board within 48 hours of the evaluation. Reports will be provided to the Board within 14 days of each evaluation.

(b) Respondent's must remain in the Kansas Nurses Assistance Program and comply with and remain compliant with **all** the recommendations and requirements of the program. It is the Respondent's obligation to meet all the requirements of the program. Respondent must follow and successfully complete any treatment or counseling recommended.

(c) Respondent must submit to random drug screens as determined or selected by the Board or by the Kansas Nurse Assistance Program. The costs of the drug screens will be paid by the Respondent. The drug screens must be random and meet all criteria established by the Board. The drug screens will be at least quarterly and may be more frequent as determined by the Kansas

Nurses Assistance Program or the Board. The Board may select and approve the collector. The results of any drug screen specifically requested by the Board will be sent directly to the Board. A positive drug screen shall be deemed a violation of this agreement. Using products containing poppy seeds, hemp, alcohol, or other substances which can cause false positives shall not constitute an acceptable reason for having a positive drug screen. A urine specimen which is improperly given or with a creatinine of less than 20 mg/dl or which otherwise indicates that the specimen is diluted shall be deemed to be a positive drug screen. Any drug screen sample which tests positive may be re-tested by Respondent pursuant to the following procedure. Respondent must exercise this option within 72 hours of notification to her of the positive test result. Notification to Respondent will be deemed to have been made when she is orally notified of the test result. Respondent must have an aliquot or portion of the original sample which tested positive sent directly from the original testing laboratory to a Nationally Accredited NIDA laboratory of Respondent's choice. All NIDA chain of custody, handling and testing procedures must be followed. The re-test will be only for the substance which was found positive in the original test. Respondent must make arrangements to have the re-test completed and the results sent directly from Respondent's testing laboratory to the Board within three weeks of notification to Respondent of the original positive result. Respondent understands that the Board has no control over any laboratory which may do the original testing and therefore does not and can not insure or guarantee that the original testing laboratory will retain the original sample or a sufficient quantity of the original sample which can be properly re-tested. If Respondent does not notify the Board and the original testing laboratory, in writing, of her desire to have a sample re-tested within the time allowed or otherwise fails to follow the above procedure the Respondent's option to have the sample re-tested shall be deemed to be waived. If, after following the above procedure, Respondent's testing laboratory reports that its testing of the original sample

was negative for the substance which originally was found positive, the question of whether the urine drug screen constitutes a violation of this Consent Agreement and the Final Order shall be determined at a hearing. The issue at the hearing shall be limited to whether, if after following all appropriate testing procedures, the original urine specimen was positive or negative for the substance which originally was found positive, and the burden of proof will be on the Board. Furthermore, in the event that both the original and any subsequent tests are positive, Respondent shall have the right to request a hearing. The issues at such hearing shall be limited to whether the specimen tested was that of Respondent and if appropriate testing procedures were followed, and the burden of proof will be on the Respondent.

(d) Respondent must abstain from the use of all alcohol and controlled substances except as prescribed for her for legitimate reasons by a licensed medical provider from whom she seeks medical attention. Respondent shall inform all providers who authorize prescriptions for narcotics, psychotropic medicines, or other mood altering drugs, or other pain relief for her of her dependency on controlled substances, and Respondent shall cause all such providers to submit written reports within 10 days of each prescription to the Board. The written reports shall identify the medication prescribed, the reason for the prescription, the dosage, the date of prescription, and the number of refills authorized. Respondent agrees that if she accepts a prescription for narcotics, psychotropic medicines, or other mood altering drugs, that the Board may impose additional requirements or terms.

(e) Respondent shall immediately inform all employers, prospective employers, and the director of any nursing education program in which she enrolls or teaches, of this Consent Agreement and the Final Order. Within 14 days of this Consent Agreement and the Final Order, and within 14 days of any change of employment Respondent shall cause her employer to notify the

Board in writing of the employer's receipt of copies of this Consent Agreement and the Final Order. If Respondent accepts employment with a nursing registry, a temporary nursing service or agency, a home health care service or agency, or as a private duty nurse she shall inform all persons for whom she provides nursing services of this Consent Agreement and the Final Order and cause them to notify the Board in writing of their receipt of copies of this Consent Agreement and the Final Order within 14 days as provided above. Respondent shall also cause her employer(s) to provide quarterly reports for the period of her licensure. The reports shall be prepared by Respondent's immediate supervisor or by an R.N. who evaluates her performance on a regular basis. Such reports shall include information regarding attendance, performance and documentation. The quarterly reports shall be due, January 20, 1999, April 20, 1999, July 20, 1999, September 30, 1999, January 20, 2000, April 20, 2000, July 20, 2000, and September 30, 2000. Respondent's employer may submit copies of employee evaluations conducted during a quarter in lieu of a report for that quarter. These reports or evaluations shall be sent by the employer or person conducting the evaluation to the attention of the Board's Practice Specialist, Kansas State Board of Nursing, Landon State Office Building, 900 S.W. Jackson, Suite 551-S, Topeka, Kansas 66612-1230.

(f) Respondent shall comply with all laws and regulations governing the practice of nursing. Respondent shall also comply with all laws and regulations of the United States of America and its states. Minor traffic violations will not automatically be deemed a violation of this Consent Agreement or the Final Order. Depending on the circumstances, repeated minor traffic violations could, however, be evidence of a pattern and practice which may demonstrate a manifest incapacity to practice nursing. Traffic offenses involving drugs or alcohol are not minor traffic offenses and will be deemed to be a violation of this Consent Agreement and the Final Order.

(g) Respondent agrees to sign any release(s) necessary so that all, reports, tests, or evaluations may be forwarded to the Kansas State Board of Nursing to the attention of the Board's Practice Specialist. In addition, upon request the Respondent will provide the Board with any release necessary to confirm that Respondent remains alcohol and drug free. The revocation of any release will be a breach of this Consent Agreement.

(h) Respondent must regularly participate in AA and NA programs.

(i) Respondent agrees to notify the Board's Practice Specialist of the name of her employer and immediate supervisor within 14 days from the signing of this Consent Agreement and within 14 days of any change of employment or change in immediate supervisor.

(j) Respondent agrees to notify the Board's Practice Specialist of any changes in her name, address, and phone number as well as all employment terminations or employer changes or additions. All such notifications shall be made within 14 days of such a change.

(k) Respondent shall immediately notify the Board of any use of alcohol or controlled substances, or any violation of this Consent Agreement or the Final Order.

(l) Respondent shall receive a license card which shall be issued with an "S" and an "L" placed in the status code portion of the license card to indicate that action has been taken against her license.

(m) Respondent shall not, under any circumstances, misrepresent her licensure status.

(n) Respondent shall report in person for appointment with the Board staff upon request.

(o) Respondent shall not handle or administer narcotics, psychotropic medications, or other mood altering drugs, nor shall Respondent carry keys for, or have access to,

storage areas where such substances are stored or kept, nor shall she be involved with retrieval of, or assist in the retrieval, of such substances from the pharmacy, nor shall she participate, directly, indirectly, or as a witness, in the destruction or wasting of such substances. Respondent will not write out or call in any prescriptions for narcotics, psychotropic medications or mood altering drugs. Provided, however, if the Kansas Nurses Assistance Program requires as a part of the program that Respondent have key privileges Respondent may request a modification of the restrictions of this paragraph.

5. Respondent admits and agrees that any use by her of alcohol or controlled substances, except as specifically allowed herein will not only be a violation of this Consent Agreement, but also independent grounds for additional discipline pursuant to K.S.A. 65-1120, and may, at the sole discretion of the Board, constitute conclusive and irrefutable proof that she should not be licensed to practice nursing, and will justify immediate action to revoke or suspend her license to practice nursing. Respondent agrees that within 48 hours of any request, she will surrender her license to the Board if the Board, after any investigation, determines that she is has violated the terms and conditions of this Consent Agreement or the Final Order. Respondent further agrees that, if she fails to surrender her license to the Board within 48 hours of a request as provided above, the Board will be authorized and justified in taking emergency action against her pursuant to K.S.A. 77-537. Furthermore, in the event the Board should move for an order revoking Respondent's license or lifting the stay the only issue will be whether Respondent has strictly complied with every term and condition herein.

6. Respondent understands that any unsatisfactory reports from the Kansas Nurse Assistance Program, by her supervisor, or any reports of a reportable incident under Risk Management Law, or a violation of the Kansas Nurse Practice Act, or failure to comply with any of



the conditions of this Consent Agreement and the Final Order may, at the sole discretion of the Board, constitute a breach of this Consent Agreement and the Final Order, and may result in further proceedings against respondent under the Kansas Administrative Procedures Act.

7. Respondent further understands that each and every condition outlined in this Consent Agreement is mandatory and if she fails to meet any one of the conditions the Board will proceed to cause a petition or other proceedings to be filed in this matter and that a full adjudicative proceeding will follow. Respondent further understands that as a result she may be fined and her license may be denied, suspended, limited, revoked, pursuant to K.S.A. 65-1120 or K.S.A. 74-1110.

8. It is understood that this Consent Agreement is subject to the approval of the Board. Should the Board, or its designee, modify or change this Consent Agreement in any manner unsatisfactory to either party, or disapprove it, either party may withdraw its consent and this document, and all agreements herein shall be void, and the matter will proceed to hearing. However, once approved, all stipulations, agreements and admissions made herein are binding upon the Respondent in the event it is necessary to hold any further hearing in these or any other proceedings.

9. The Parties understand and acknowledge that this is a disciplinary action and will be reported to the National Council of State Boards of Nursing data bank, and that pursuant to K.S.A. 45-215 *et seq.*, the signed original of this Consent Agreement and the Final Order shall remain in the custody of the Board as public records.

10. In deciding to enter into this Consent Agreement the Respondent relied upon her own knowledge and judgment and that of her attorney and did not rely on any statement, representation or promise from the Board or anyone acting on its behalf. Respondent further acknowledges that she entered into this Consent Agreement and consented to the entry of the Final Order freely,

knowingly, and voluntarily, and without any coercion, pressure, or duress from the Board of anyone on its behalf.

11. This Consent Agreement will be subject to and governed by the laws of the State of Kansas.

12. Respondent acknowledges and agrees that neither this Consent Agreement or the Final Order are intended to be, nor will they will operate as, a waiver or estoppel of the Board's right to take action against Respondent for any act or omission not specifically made a part of this agreement, and that nothing in this Consent Agreement or the Final Order shall be construed to deny the Board jurisdiction to investigate and prosecute other alleged violations of the Nurse Practice Act regardless of when they occur(ed) or when called to the attention of the Board. Respondent acknowledges that each and ever term and condition imposed herein is mandatory and that she is required to comply with each and every one. An express or implied waiver of one or more conditions shall not operate as a waiver of any other nor constitute an estoppel or bar to the enforcement of any other term or condition of this Consent Agreement.

13. Respondent acknowledges and understands that she will be responsible for payment of any costs associated with compliance with this Consent Agreement, and that it is her responsibly to insure that all reports required to be submitted to the Board, including those from her employer or other third party, are submitted in a timely manner.

14. Respondent will pay costs in the sum of \$35.00, and an administrative fine pursuant to K. S. A. 77-1110 of \$3,000.00. Said payment shall be made to the Board in cash or money order. The \$35.00 shall be paid in full within 60 days of the entry of the Final Order. The \$3,000.00 administrative fine shall be paid in full on or before Respondent December 31, 2000, and is a prerequisite to re-licensing.

15. Respondent acknowledges and agrees that nothing contained in this Consent Agreement or the Final Order will grant her any right to automatic license renewal.

16. By signing this Consent Agreement, Respondent acknowledges that she 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.

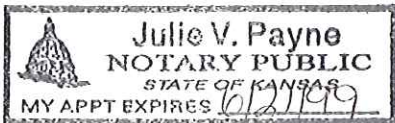
**IN WITNESS WHEREOF**, the parties hereto execute this Consent Agreement and request that a Final Order be entered.


  
\_\_\_\_\_  
HOLLY BRIMAN  
Respondent

DATE January 6, 1999

STATE OF KANSAS            )  
  )    SS  
COUNTY OF SHAWNEE    )

Subscribed and Sworn to before me, this 6 day of January, 1999.



  
\_\_\_\_\_  
Signature of Notary Public

APPROVED:

[Redacted]

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NANCY E. FREUND  
Attorney for Respondent

DATE January 6, 1999

[Redacted]

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REX G. BEASLEY  
Assistant Attorney General  
Disciplinary Counsel

DATE January 7, 1999