

**BEFORE THE KANSAS STATE BOARD OF NURSING**  
Landon State Office Building, 900 S.W. Jackson #1051  
Topeka, Kansas 66612-1230

**IN THE MATTER OF  
TAMARA J. WANER  
License No. 13-55827-082**

**FILED**  
**JAN 27 2011**  
**KSBN**

**Case No. 06-386-5, 06-958-6**

**FINAL ORDER  
AND CONSENT AGREEMENT**

NOW ON THIS 28<sup>th</sup> day of January, 2011, the Kansas State Board of Nursing, represented by Assistant Attorney General, Danielle R. Sanger, and the Respondent, Tamara J. Waner, 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 reinstatement application was received by the Kansas State Board of Nursing on 9/14/2010. The Kansas State Board of Nursing (KSBN) has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent's address of record is 417 W 6th St., Florence KS 66851.
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. Respondent acknowledges that this agreement is an open record pursuant to the Kansas Open Records Act, K.S.A 45-215 *et seq.*, and may be published or disseminated notwithstanding any state or federal law otherwise restricting public access to, or dissemination of, any personal or health care information, or any information or records of substance abuse evaluation and/or treatment contained herein.

5. 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.
6. On or about 11/28/2006, the Board received information that a prescription for Lortab 10mg was called into a Walgreens pharmacy for Respondent which was not authorized by a doctor or Advanced Registered Nurse Practitioner.
7. On or about 12/2/2006, Respondent picked up the above-referenced Lortab 10mg.
8. On or about 12/3/2006, Respondent was arrested by the Wichita Police Department for obtaining a prescription through fraudulent means.
9. On or about 5/7/2007, a Complaint was filed in case #07CR1538, in the Eighteenth Judicial District, Sedgwick County, alleging that Respondent did, unlawfully, deliver a prescription order for hydrocodone, knowing it to have been made by a person other than a practitioner or a mid-level practitioner, contrary to K.S.A. 21-4214(a)(2)(b)(1), obtaining a prescription only drug by fraudulent means, class A non-person misdemeanor.
10. On or about 8/25/2008, a Journal Entry was entered in case #07CR1538, in which Respondent pled nolo contendere to one count of obtaining a prescription only drug by fraudulent means, contrary to K.S.A. 21-4214(a)(2)(b)(1), and was sentenced to 12 months in jail but the Respondent was given probation for the term of the confinement.
11. On or about 7/8/2010, an Amended Information was filed in case #07CR184, in the Thirteenth Judicial District, Butler County, alleging that Respondent did unlawfully and intentionally fail or refuse to bring her vehicle to a stop, or otherwise fled or attempted to elude a pursuing, marked police vehicle, when given visual or audible signal to halt by an appropriately identified law enforcement officer; and that Respondent did unlawfully possess a prescription-only drug knowing it to have been obtained pursuant to a

prescription order made, altered, or signed by a person other than a practitioner or mid-level practitioner.

12. On or about 7/14/2010, a Journal Entry was entered in case #07CR181, in which Respondent pled nolo contendere to two counts, (1) Fleeing and Eluding, a class B nonperson misdemeanor, and (2) Obtaining a prescription drug by fraudulent means, a class A nonperson misdemeanor, and was sentenced to 12 months in jail but the Respondent was given probation for the term of the confinement.
13. On or about 9/14/2010, Respondent filed a reinstatement application with the Board.
14. The above incidents are violations of the Nurse Practice Act. The Respondent agrees that the Board is prepared to prove that Respondent has violated:
  - a. 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; In the alternative, K.S.A. 65-1120(a)(3), to have committed an act of professional incompetency as defined in subsection (e), 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;
  - b. Count 2: K.S.A. 65-1120(a)(2), to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust.
15. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 *et seq.* to examine, license and renew licenses 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.
16. 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**

17. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 *et seq.* to examine, license and renew licenses 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.
18. Respondent has violated the Kansas Nurse Practice Act as follows:
- a. 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; In the alternative, K.S.A. 65-1120(a)(3), to have committed an act of professional incompetency as defined in subsection (e), 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;
  - b. Count 2: K.S.A. 65-1120(a)(2), to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust.

### **POLICY STATEMENT**

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

### **DISPOSITION**

20. 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.
21. Based upon this agreement, the parties agree that reinstatement of Respondent's nursing license shall be contingent upon this Final Order and Consent Agreement

remaining in effect until Respondent completes each of the conditions and requirements of this agreement.

22. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that if Respondent's license to practice nursing in Kansas is reinstated, the license is immediately suspended. The suspension will be stayed as long as the requirements and conditions of this agreement are met.
23. 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.
24. The Kansas State Board of Nursing will grant Respondent's reinstatement application and 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 conditions and requirements:
  - a. **PRIOR to reinstatement, Respondent will complete two (2) hours of Continuing Nursing Education on the topic of Kansas Nurse Practice Act.**  
Respondent is to submit the original certificates for proof of the completion of the hours within 60 days of this agreement. Respondent may not use these hours to meet the CNE requirements of any renewal period.
  - b. **PRIOR to reinstatement, Respondent will complete three to six (3-6) hours of Continuing Nursing Education on the topic of Documentation.**  
Respondent is to submit the original certificates for proof of the completion of the hours within 60 days of this agreement. Respondent may not use these hours to meet the CNE requirements of any renewal period.

- c. **PRIOR to reinstatement, Respondent will complete three to six (3-6) hours of Continuing Nursing Education on the topic of Ethics.** Respondent is to submit the original certificates for proof of the completion of the hours within 60 days of this agreement. Respondent may not use these hours to meet the CNE requirements of any renewal period.
- d. **PRIOR to reinstatement, Respondent will sign an three (3) year agreement with Kansas Nurses Assistance Program (KNAP) to participate in and complete the reasonable recommendations and requirements of KNAP;** sign releases of information necessary for KNAP to evaluate and monitor Respondent and for KNAP to report information to the board. Respondent will participate in the KNAP program for at least eighteen (18) months, with mandatory monitoring, and at a minimum, a six (6) month key restriction. Respondent will be deemed to have completed the KNAP program when KNAP issues written notification that Respondent has completed the program. Respondent must enroll in the KNAP program within thirty (30) days of entering this agreement. Noncompliance with KNAP is a violation of this agreement.
- e. **PRIOR to reinstatement, a written statement must be provided to the Kansas State Board of Nursing by KNAP which states the Respondent has submitted to at least three drug screens since entering this consent agreement, the result of which is negative for substances prohibited by KNAP; furthermore, KNAP must also issue a written statement to the Kansas State Board of Nursing which states that the Respondent has completed three consecutive months of compliance in KNAP since entering this consent agreement and that the Respondent is safe to practice nursing in the State of Kansas.**

- f. Respondent must submit to random drug screens as determined or selected by the Board or by KNAP. 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.
- g. Respondent's nursing license, once reinstated, shall be immediately suspended with a stay. Respondent's reinstated license shall also be immediately limited.
- h. Respondent shall have a narcotic key restriction on Respondent's license for the first six (6) months after Respondent secures employment that requires a nursing license. The narcotic key restriction prohibits the Respondent from passing of narcotics, wasting of narcotics, or having access to narcotics. The narcotic key restriction also prohibits the Respondent from supervising nurses or others that have access to narcotics. After Respondent completes six (6) months of employment that requires a nursing license, without violating any terms of this agreement, Respondent may request that the narcotic key restriction be removed from Respondent's license. Respondent's request shall include written verification from Respondent's employer, to the Kansas State Board of Nursing, as to whether the Respondent has been employed in a position that requires a nursing license; as to whether the Respondent has held that position for at least six (6) months; as to whether the Respondent has passed, wasted, had access to, or supervised others that had access to narcotics. With a showing that the narcotic key restriction term of this agreement has been met by the Respondent, and the Respondent is compliant with all other terms of this agreement, the narcotic key restriction will be removed from Respondent's license.

- i. Respondent shall immediately notify the Legal Division of any use of alcohol, if prohibited by KNAP, or controlled substances, or any violation of this Final Order and Consent Agreement.
- j. The Respondent shall immediately inform all employers and prospective employers of this Final Order and Consent Agreement.
- 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:
  - i. Prior to Respondent securing employment that utilizes his or her nursing license, Respondent is to mail to the Kansas State Board of Nursing a statement indicating that Respondent has not yet secured employment which utilizes Respondent's nursing license. This statement is due by the 10th day of each month beginning the next month after signing this Final Order and Consent Agreement.
  - ii. Once Respondent is employed in a position that utilizes his or her nursing license, 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.
    - 1. 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:
      - a. Incorporation of information on facility letterhead stationary is mandatory.



- b. Letter format is acceptable, with the date of the report identified.
- c. Evaluator's name, telephone number, address, license number and nursing credentials.
- d. Respondent's name, address, telephone number, license number.
- e. A short explanation of the Respondent's work performance in the following areas:
  - i. Standards met regarding facility policies and procedures.
  - ii. Compliance with the Kansas Nurse Practice Act.
  - iii. Supervisor evaluations.
  - iv. Overall appropriateness.
  - v. Interactions with patients.
  - vi. Interactions with staff and administration.

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

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

**n. Respondent shall not violate the laws of the United States, of any 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.**

**o. 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.**

25. Respondent acknowledges and agrees that Respondent is responsible for the costs related to satisfying the conditions and requirements of this Final Order and Consent Agreement. Respondent further acknowledges and agrees that to provide the Board with false information regarding compliance with this Final Order and Consent Agreement is a violation of this Final Order and Consent Agreement.
26. 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 Final Order and Consent Agreement, but Respondent could not contest the violations listed in this agreement.
27. All parties understand that if an action based on failure to meet the conditions and requirements of this Final Order and 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.
28. Respondent acknowledges and agrees that if any action based on failure to meet the conditions and requirements of this Final Order and Consent Agreement is filed during the term of this Final Order and Consent Agreement, or within 30 days after the expiration date, the conditions of this Final Order and Consent Agreement shall continue in effect until the Board or a hearing/presiding officer designated pursuant to K.S.A. 77-514 and K.S.A. 77-526, rules on the action.
29. Respondent acknowledges and agrees that upon a first finding of Respondent not complying with any of the conditions or requirements of this Final Order and 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. Respondent acknowledges and agrees that all conditions and requirements of this Final Order and Consent Agreement remain in effect during the period of suspension.

30. Respondent acknowledges and agrees that upon a second or subsequent finding of Respondent not complying with any of the conditions or requirements of this Final Order and 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. Respondent acknowledges and agrees that all conditions and requirements of this Final Order and Consent Agreement remain in effect during the period of suspension.
31. Respondent acknowledges and agrees that upon the Stay of Suspension being lifted due to a finding of non-compliance with any of the conditions or requirements of this Final Order and 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 and has remained in compliance during the period of suspension, with all conditions and requirements of this Final Order and Consent Agreement. Upon the Respondent providing said written verification the suspension will again be stayed.
32. 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.

33. 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. This Agreement is a public record and will be reported to national disciplinary data banks.
34. After successful completion of all of the conditions and requirements of this Final Order and Consent Agreement by the Respondent, the Final Order and Consent Agreement will be satisfied and the case will be inactivated.
35. By signing this Final Order and Consent Agreement, Respondent acknowledges that Respondent has read and understands the entire document, and agrees to be bound by its terms. This Final Order and Consent Agreement constitute the entire agreement of the parties and may not be modified except in writing and approved by all parties. The effective date of this Final Order and Consent Agreement is the date shown on the certificate of service.
36. 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.

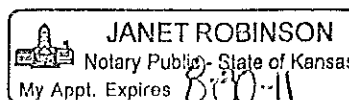
IN WITNESS WHEREOF, the parties hereto execute this FINAL ORDER AND  
CONSENT AGREEMENT.

IT IS SO ORDERED.

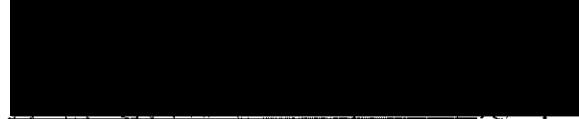
[REDACTED]

Tamara J. Waner  
Respondent  
417 W 6th St.

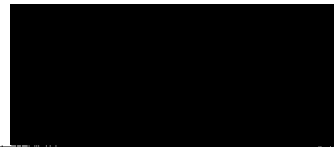
Tamara J. Waner must sign before a Notary Public.



Florence KS 66851



Danielle R. Sanger, #24587  
Assistant Attorney General  
Kansas State Board of Nursing  
Landon State Office Building  
900 SW Jackson #1051  
Topeka, KS 66612



Sandra Sharon, Presiding Officer

Pursuant to K.S.A. 77-527, either party may request a review of this final order by filing a petition for reconsideration with the Kansas State Board of Nursing. A petition for reconsideration must be filed with 15 days from the date this final order was served. Failure to timely request a reconsideration by the Kansas State Board of Nursing may preclude further judicial review. The petition for reconsideration shall be mailed or personally delivered to: Mary Blubaugh, Executive Director, Board of Nursing, Landon State Office Building, Suite 1051, 900 SW Jackson, Topeka, KS 66612-1230.

Pursuant to K.S.A. 77-531, if the final order is served by mail, three days are added to the time limits set out above.

CERTIFICATE OF SERVICE

On the 9<sup>th</sup> day of January, 2011, I mailed a copy of this FINAL ORDER AND CONSENT AGREEMENT to:

Tamara J. Waner  
417 W 6th St.  
Florence KS 66851



Danielle R. Sanger, #24587  
Assistant Attorney General  
Kansas State Board of Nursing  
Landon State Office Building  
900 SW Jackson #1051  
Topeka, KS 66612