

BEFORE THE KANSAS STATE BOARD OF NURSING

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

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FILED

**IN THE MATTER OF
JULIE A. NEWMAN
License No. 13-58245-091**

JAN 27 2010

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KSBN

Case No. 08-338-5, 08-473-5

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 25th day of January, 2010, the Kansas State Board of Nursing, by counsel, Assistant Attorney General Brenda J. Clary, and the Licensee, Julie A. Newman, 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 through the 30th day of September 2011. The Kansas State Board of Nursing (KSBN) has jurisdiction over the Licensee and the subject matter of this action.
2. Licensee's address of record is 1525 Caddy Ct, Wichita, KS 67212.
3. The Licensee understands that pursuant to K.S.A. 77-515, Licensee may be represented by an attorney, at Licensee's expense, 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. 65-1113 *et seq.*, or is otherwise not qualified to hold a license to practice nursing, and referred this matter for further proceedings.
5. A petition was filed on or about December 18, 2009, to take disciplinary action against the licensee's license.
6. The petition alleges evidence would support the following findings:
Count 1: K.S.A.65-1120(a)(1), that Licensee is guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing.

Count 2: K.S.A. 65-1120(a)(3), that Licensee has demonstrated professional Incompetency, as defined 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.

Count 3: K.S.A. 65-1120(a)(4), that Licensee is unable to practice with skill and safety due to current abuse of drugs or alcohol.

Count 4: K.S.A. 65-1120(a)(6), that Licensee has demonstrated unprofessional conduct, as defined by K.A.R. 60-3-110(d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board.

Count 5: K.S.A. 65-1120(a)(6), that Licensee has demonstrated unprofessional conduct, as defined by K.A.R. 60-3-110(n), diverting drugs, supplies, or property of any patient or agency.

7. 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. Respondent is waiving those rights and voluntarily entering into this agreement instead of proceeding to such a hearing. Licensee acknowledges that this agreement will be 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 contained herein.

CONCLUSIONS OF LAW

8. 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, upon making any of the findings listed in K.S.A. 65-1120(a).

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

Count 1: K.S.A.65-1120(a)(1), that Licensee is guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing.

Count 2: K.S.A. 65-1120(a)(3), that Licensee has demonstrated professional Incompetency, as defined 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.

Count 3: K.S.A. 65-1120(a)(4), that Licensee is unable to practice with skill and safety due to current abuse of drugs or alcohol.

Count 4: K.S.A. 65-1120(a)(6), that Licensee has demonstrated unprofessional conduct, as defined by K.A.R. 60-3-110(d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board.

Count 5: K.S.A. 65-1120(a)(6), that Licensee has demonstrated unprofessional conduct, as defined by K.A.R. 60-3-110(n), diverting drugs, supplies, or property of any patient or agency.

POLICY STATEMENT

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

DISPOSITION

11. 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.

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

13. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the Licensee's license to practice nursing in Kansas is immediately suspended. However, the suspension will be stayed as long as the requirements and conditions of this agreement are met.

14. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the Licensee'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.

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 return his or her current license card to the Board with this Consent Agreement. 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 with a Stay. The card will have an "L" indicating the limitations on the practice.
- b) Licensee will participate in and complete the reasonable recommendations and requirements of the Kansas Nurses Assistance Program (KNAP); sign releases of information necessary for KNAP to evaluate and monitor Licensee and for KNAP to report information to the board. Licensee will be deemed to have completed the KNAP program when KNAP issues written notification that Licensee has completed the program. Licensee must enroll in the KNAP program within thirty (30) days of entering this agreement. Noncompliance with KNAP is a violation of this agreement.

c) Licensee 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 Licensee.

Licensee agrees that a Positive Drug Screen is a violation of this agreement.

d) Licensee shall have a narcotic key restriction on respondent's license for the first six (6) months after the effective date of this agreement or for the first six (6) months after Licensee secures employment that requires a nursing license, whichever occurs later. The narcotic key restriction prohibits the Licensee from passing of narcotics, wasting of narcotics or having access to narcotics. The narcotic key restriction also prohibits the Licensee from supervising nurses or others that have access to narcotics. After Licensee completes six (6) months of employment that requires a nursing license, without violating any terms of this agreement, Licensee may request that the narcotic key restriction be removed from Licensee's license. Licensee's request shall include written verification from Licensee's employer, to the Kansas State Board of Nursing, as to whether the Licensee has been employed in a position that requires a nursing license; as to whether the Licensee has held that position for at least six (6) months; as to whether the Licensee 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 Licensee, and the Licensee is compliant with all other terms of this agreement, the narcotic key restriction will be removed from Licensee's license.

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

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

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

h) 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.

j) The 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 acknowledges and agrees that Licensee is responsible for the costs related to satisfying the conditions and requirements of this Consent Agreement. Licensee 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.

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 serving the Notice of Hearing upon the Licensee only 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 if any action based on failure to meet the conditions and requirements of this Consent Agreement is filed during the term of this Consent Agreement and Final Order, or within 30 days after the expiration date, the conditions of this Consent Agreement and Final Order 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.

20. Licensee acknowledges and agrees that upon a first finding of Licensee's failure to comply with any of 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 for a period of six months from the date of said finding. Licensee will not be allowed to practice nursing in the state of Kansas during the period of suspension. Licensee acknowledges and agrees that all conditions and requirements of this Consent Agreement remain in effect during the period of suspension.

21. Licensee acknowledges and agrees that upon a second or subsequent finding of Licensee's failure to comply with any of 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 for a period of one year from the date of said finding. Licensee will not be allowed to practice nursing in the state of Kansas during the period of suspension. Licensee acknowledges and agrees that all conditions and requirements of this Consent Agreement remain in effect during the period of suspension.

22. Licensee 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 Consent Agreement, the Suspension will not again be Stayed until the Licensee 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 Consent Agreement. Upon Licensee's providing said written verification, the suspension will again be stayed.

23. 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.

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. This Agreement is a public record and will be reported to national disciplinary data banks. This agreement will be 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 contained herein.

25. 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.

26. By signing this Consent Agreement and Final Order, Licensee acknowledges that Licensee has read the entire document, 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. The effective date of this Consent Agreement and Final Order is the date shown on the certificate of service.

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.



Julie A. Newman
Respondent
1525 Caddy Ct
Wichita, KS 67212

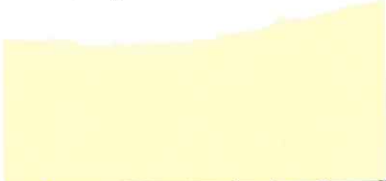
Julie A. Newman must sign before a Notary Public.

State of Kansas
 County of Sedgewick

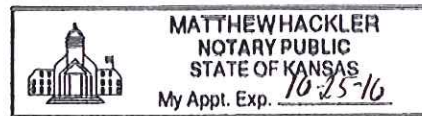
Signed before me on January 20th,
 2010, by Julie A. Newman.

Matthew Hackler
 Notary Public

My appointment expires Oct. 25th, 2016.



Brenda J. Clary, #18770
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612



IT IS SO ORDERED.


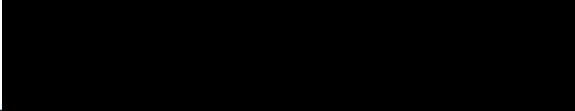


Sandra L. Sharon
Presiding Officer

CERTIFICATE OF SERVICE

On the 28th day of January, 2010, I caused a true and correct copy of this CONSENT AGREEMENT AND FINAL ORDER to be placed in the United States mail, first class postage prepaid, addressed to the following:

Julie A. Newman
1525 Caddy Ct
Wichita, KS 67212



Brenda J. Clary, #18770
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612