

JAN 6 2005

**BEFORE THE KANSAS STATE BOARD OF NURSING** Board of NursingLandon State Office Building, 900 S.W. Jackson #1051  
Topeka, Kansas 66612-1230IN THE MATTER OF  
**JUDITH ANN BERRY**  
LICENSE NO. 13-064258-121**CASE NO. 03-753-7****CONSENT AGREEMENT TO SUSPEND LICENSE WITH A STAY AND FINAL ORDER**

NOW ON THIS 3<sup>rd</sup> day of January, 2005, the Kansas State Board of Nursing, represented by Assistant Attorney General, Betty Wright, and the respondent, Judith Berry, enter into the following agreement:

1. Respondent is licensed to practice nursing through 12/31/2005.
2. After an investigation, the Board's investigative committee found reasonable grounds to believe that respondent violated the nurse practice act and referred this matter for further proceedings.
3. Respondent has the right to a hearing with evidence and witnesses to establish evidence of his/her fitness to practice nursing 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 and the Kansas State Board of Nursing are waiving those rights and voluntarily entering into this consent agreement instead of proceeding to such a hearing.

**AGREED FINDINGS OF FACT**

4. In August 2003 the licensee self-referred to the Kansas Nurse Assistance Program (KNAP) due to alcohol addiction. Licensee was evaluated and was found to be alcohol dependent. Licensee has since relapsed to alcohol three times, December 2003, April 2004 and June 2004. The relapse to alcohol in December 2003 occurred when she was on call with her employer.

### CONCLUSIONS OF LAW

5. K.S.A. 65-1120(a)(4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol  
K.A.R. 60-3-110(s) failing to complete the requirements of the impaired provider program of the board.

### POLICY STATEMENT

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

### DISPOSITION

7. 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.77-501 *et seq.* and to judicial review.

8. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the current license will be immediately **suspended** but such **suspension shall be stayed. A new card will be issued with an "S."** Licensee is to return the current card with this agreement. Licensee will be allowed to practice under the following conditions:

a. Licensee shall participate in and complete the 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.

b. Licensee shall send a **money order for \$70** to the Board upon entering into this agreement.

9. Licensee is responsible for the costs related to satisfying these conditions.

10. If licensee does not meet these requirements, petitioner will file a motion to lift the stay and 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 he/she had complied with this agreement, but he/she could not contest the established

violation(s).

11. Licensee agrees to notify the Legal Division of any changes in her address and phone number as well as all nursing employment terminations or employer changes or additions. All such notifications shall be made within fourteen (14) days of such a change.

12. Licensee shall immediately notify the Legal Division of any use of alcohol, or controlled substances, or any violation of this Consent Agreement and Final Order.

13. **The Board will inactivate this case file when KNAP sends a letter stating she has successfully completed the KNAP program.** This agreement does not prohibit the agency from taking disciplinary action against licensee's license for any additional or cumulative violation of the Nurse Practice Act committed by the licensee before or after this agreement is entered into.

14. The parties understand and acknowledge that this is a disciplinary action; it will be in the newsletter and on the website. The original of this agreement shall be placed in the Agency Record and is a public record.

15. By signing this Consent Agreement, respondent acknowledges that licensee 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 CONCLUSION**

16. This case will be inactivated and a card with no suspension will be issued when:

- a) KNAP issues a letter of successful completion of the KNAP program.
- b) cost of \$70 is paid.

17. Once all of the above are met, the licensee may request that an unencumbered license be issued by sending the request in writing and returning the license card with the "S" to the Board; if all requirements are met a new card will be issued with no restrictions.

IN WITNESS WHEREOF, the parties hereto execute this Consent Agreement to

Suspend License with a Stay and request for a Final Order.

Judith Berry  
Licensee  
1237 W. Poplar St.  
Olathe, Kansas, 66061

12/29/04  
*Notary of Judith Berry*  
*JUKS 122904*

Betty Wright, #14103  
Assistant Attorney General  
900 SW Jackson, Suite 1051  
Topeka, Kansas 66612-1230  
(785) 296-4707

KRIS A. ELDER  
My Appt. Exp. 12/30/07

IT IS SO ORDERED.

Terry Beck  
Hearing Officer

On the <sup>10th</sup> ~~6th~~ day of *January*, ~~2004~~, <sup>2005</sup> I caused a copy of this document to be mailed, postage prepaid, to:

**CERTIFICATE OF SERVICE**

Judith Berry  
1237 W. Poplar St.  
Olathe, Kansas, 66061

KNAP  
6405 Metcalf, Ste 403  
Cloverleaf Complex Bldg #3  
Overland Park, KS 66202

Betty Wright, Assistant Attorney General