

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

MAR 3 2011

KSBN

**IN THE MATTER OF
WENDY J. MCALLISTER
License No. 13-083339-072**

Case No. 07-658-5; 07-947-6

CONSENT AGREEMENT TO SURRENDER AND REVOKE LICENSE AND FINAL ORDER

NOW ON THIS 7th day of March, 2011, the Kansas State Board of Nursing, represented by Assistant Attorney General, Alma A. Heckler, and the Licensee, Wendy J. McAllister, hereby enter into this agreement and proffer evidence and the presiding officer adopts those recommendations and makes the following findings of fact and orders:

AGREED FINDINGS OF FACT

The presiding officer makes the following findings of fact based on the evidence presented and statements of the parties.

1. Licensee is licensed to practice nursing in Kansas through 7/31/2012. 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 1944 Belmont St, El Dorado, Kansas 67042.
3. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 et seq. to examine, license and renew license for duly qualified applicants and may limit, deny, suspend or revoke a license or authorization to practice nursing, may issue a public or private censure and levy administrative fines consistent with K.S.A. 74-1110, if a violation of K.S.A. 65-1120 is established.
4. The Board has requested that a petition be filed to take disciplinary action against the licensee's license.
5. Following a petition being filed by the Board, a hearing would also be held at a later date at which time the Board would have to prove that licensee violated K.S.A. 65-1120(a).

6. Licensee has the right to these hearings and the right to seek review of the findings from the hearings in accordance with the Kansas Administrative Procedure Act and the Act for Judicial Review and Civil Enforcement of agency actions. Licensee is waiving those rights and knowingly and voluntarily entering into this agreement instead of proceeding to these hearings. This agreement will conclude Board action pending at this time against licensee's license.

7. Licensee understands that pursuant to K.S.A. 77-515, licensee may be represented at licensee's expense by, an attorney during these proceedings.

8. (a) An amended petition was filed March 18, 2008 to take disciplinary action against the licensee's license and alleged the following facts:

(b) In KBON Case Number 07-658-5, on or about 6/1/07 Licensee diverted a patient's Valium, Methadone and Lortab. She admitted to the diversion and told the Director of Total Homecare she was an impaired nurse and wanted to stop living this way. Licensee also admitted to the investigator for the Kansas Board of Nursing, in a phone interview on 11/8/07, one of respondent's patients had reported medication missing. Licensee admitted to taking four methadone tablets for her personal use.

(c) In KBON Case Number 07-947-6, on or about 9/27/07, Licensee was working at the Golden Living Center of El Dorado, Kansas. Licensee did not have a prescription for Ativan. Licensee was found unresponsive by staff and 911 was called. Licensee had capped needles and four empty vials of Ativan in her pocket. Two (2) empty vials of Ativan were found in the trash. Four of the vials were from the supplies of three different patients in the facility.

(d) Licensee was taken to the hospital and the UDS collected from her, was positive for Benzodiazepines. [REDACTED]

[REDACTED]

(e) [REDACTED]

[REDACTED] Licensee reported she was currently enrolled in the [REDACTED]

[REDACTED] Licensee was not enrolled in [REDACTED]

(f) Licensee entered [REDACTED] on 7/16/2008 after entering into a Consent Agreement and Final Order with the Board on 5/5/2008. [REDACTED]

(g) Licensee sent a letter to the board 1/24/2011 stating her wish to surrender her license.

CONCLUSIONS OF LAW

9. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 et seq. to examine, license and renew license for duly qualified applicants and may limit, deny, suspend or revoke a license or authorization to practice nursing, may issue a public or private censure and levy administrative fines consistent with K.S.A. 74-1110, if a violation of K.S.A. 65-1120(a) is established.

10. Licensee has been found to have previously violated the Kansas Nurse Practice Act as follows:

Count 1: K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n);

Count 2: K.S.A. 65 1120(a)(4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol;

Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct, by failing to complete the requirements of the impaired provider program of the board; K.A.R. 30-3-110 (s).

POLICY STATEMENT

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

DISPOSITION

12. Based upon this agreement, the parties agree that Licensee is surrendering licensee's license to practice nursing in the state of Kansas.

13. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that Licensee's license to practice nursing in Kansas is immediately revoked. Licensee shall not practice nursing in the state of Kansas.

14. Upon signing this agreement and returning it to the Board, licensee shall return licensee's license card with the agreement.

15. The Board will report this surrender and revocation to data banks, other entities, and in its newsletter. This is a disciplinary action on licensee's license. The original of this document shall be kept in the Board's agency file. This Agreement is a public record and will be reported to national disciplinary data banks. The effective date of this Consent Agreement to Surrender and Revoke is the date shown on the certificate of service.

16. If licensee does seek reinstatement of licensee's license, the agreed facts and listed violations are admitted, licensee has waived the right to a hearing on the facts in this matter, however to receive a reinstatement of licensee's license the licensee will have the opportunity at that time to prove licensee's fitness to practice nursing in Kansas.

17. 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.

18. By their signatures, the parties hereby acknowledge this agreement.

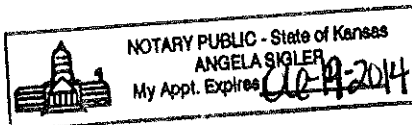
IN WITNESS WHEREOF, the parties hereto execute this CONSENT AGREEMENT TO SURRENDER AND REVOKE LICENSE AND FINAL ORDER.

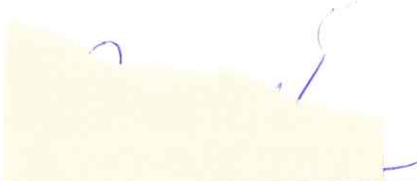
IT IS SO ORDERED.




Wendy J. McAllister
Respondent
1944 Belmont St
El Dorado, Kansas 67042

Wendy J. McAllister must sign before a Notary Public.





Alma A. Heckler, #11555
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612


Sandra L. Sharon, Presiding Officer

CERTIFICATE OF SERVICE

On the 8th day of March, 2011, I mailed a copy of this CONSENT AGREEMENT TO SURRENDER AND REVOKE LICENSE AND FINAL ORDER to:

Wendy J. McAllister
1944 Belmont St
El Dorado, Kansas 67042


Alma A. Heckler, #11555
Assistant Attorney General

NOTICE OF RIGHT TO APPEAL

Pursuant to K.S.A. 77-537, this decision, which is called a Consent Agreement to Surrender and Revoke License and Final Order, is subject to your request for a hearing. If you desire a hearing, you must submit or direct a written request for hearing to: Kansas State Board of Nursing, Legal Division, 900 SW Jackson, Suite 1051, Topeka, Kansas 66612-1230, (785) 296-4325. THIS REQUEST MUST BE SUBMITTED WITHIN FIFTEEN (15) DAYS FROM THE DATE OF THIS ORDER. If a hearing is not requested in the time and manner stated, this Consent Agreement to Surrender and Revoke License and Final Order becomes effective as a final order, without further notice, upon the expiration of the time for requesting a hearing.

Pursuant to K.S.A. 77-531, if the Consent Agreement to Surrender and Revoke License and Final Order is served by mail, three days are added to the time limits set out above.

CERTIFICATE OF SERVICE

On the 30 day of March, 2011, I mailed a copy of this CONSENT AGREEMENT TO SURRENDER AND REVOKE LICENSE AND FINAL ORDER and the Notice of Right to Appeal to:

Wendy J. McAllister
1944 Belmont St
El Dorado, Kansas 67042


Alma A. Heckler, #11555
Assistant Attorney General