

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: 98-0255-7  
 )  
CARA MENEILLY )  
LICENSE NO. 14-067776-021 )

**CONSENT AGREEMENT and FINAL ORDER**

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 Cara Meneilly hereinafter referred to as the "Respondent", personally and by and through her attorney Andrew Marquardt, 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 this case.

**NATURE OF THE CASE**

Respondent is licensed to practice as a registered professional nurse (R.N.) in the State of Kansas having been issued license number 14-067776-021 with an expiration date of February 28, 1999. Respondent timely filed a renewal application. Respondent is currently under a Consent

Agreement and Final Order in case numbers 94-0098-7 and 96-0231-7, entered on January 13, 1998 which suspended and limited Respondent's license for a period of one year. The suspension was stayed allowing Respondent to practice nursing under certain terms and conditions. The limitation on Respondent's license prohibited her from having any hands-on patient care, other than necessary for her to conduct assessments and develop plans of care for her patients. By agreement the reporting requirements, and the limitations of the Consent Agreement and Final Order were extended until April 20, 1999.

In May 1998, the Board received information which, following an investigation, resulted in the Board filling the current disciplinary action against Respondent.

#### **STIPULATION 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 denies that she violated the Kansas Nurse Practice Act as alleged in the petition.
2. 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 and consents to the entry of a Final Order to resolve this matter instead of proceeding to hearing.

3. 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.

4. Based upon the stipulations and commitments of Respondent herein, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that Respondent's license should be renewed, subject to the following terms and conditions:

(a.) The Consent Agreement and Final Order entered on January 13, 1998 in case numbers 94-0098-7 and 96-0231-7, shall remain in effect until April 20, 1999.

(b.) Within 45 days of the entry of the Final Order, Respondent shall undergo a complete psychological evaluation by a health care provider approved in advance by the Board's Practice Specialist, and shall cause the evaluator to provide the Board with a full written report concerning the Respondent's condition. 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 has unresolved psychological issues, then all of the terms and conditions of the Consent Agreement and Final Order entered on January 13, 1998 in case numbers 94-0098-7 and 96-0231-7, shall apply to the next license which may be issued to Respondent. 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.

(c.) Respondent must 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 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, habit forming substances, psychotropic medicines, or other mood altering drugs, that the Board may impose additional requirements or terms.

(d.) As long as her license is limited 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 the Final Order, and within 14 days of any change of nursing employment Respondent shall cause her nursing employer to notify the Board in writing of the employer's receipt of copies of this Consent Agreement and the Final Order. In the event the evaluation reveals that Respondent has unresolved psychological issues, then 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, April 20, 1999, July 20, 1999, October 20, 1999, January 20, 2000, April 20, 2000, July 20, 2000, October 20, 2000, and January 20, 2001. If Respondent is not employed as a nurse for a period of time included in this schedule she shall immediately inform the Board and the Board may, at its discretion, extend the reporting requirements of this paragraph so that the Board can obtain eight reports concerning Respondent's nursing performance. 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.

(e.) Respondent shall comply with all laws and regulations governing the practice of nursing.

(f.) 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. The revocation of any release will be a breach of this Consent Agreement and the Final Order.

(g.) Respondent shall notify the Board's Practice Specialist of the name of her employer and immediate supervisor within 14 days of the Final Order and within 14 days of any change of employment or change in immediate supervisor.

(h.) Respondent shall notify the Board's Practice Specialist of any changes in her name, address, and phone number. All such notifications shall be made within 14 days of such a change.

(i.) Respondent shall immediately notify the Board of violation of this Consent Agreement or the Final Order.

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

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

(p) As long as her license is limited Respondent shall not handle or administer narcotics, psychotropic medications, or other mood altering drugs. Respondent shall not 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.

(q) Respondent shall not commit any act which would be a crime under federal law or, if it occurred in Kansas, would be a crime under Kansas law. If Respondent is charged with such a crime she shall immediately notify the Board in writing of any formal charge(s) against her and also promptly notify the Board in writing of the resolution of the charge(s).

5. Respondent understands and agrees that any unsatisfactory reports from the her supervisor in nursing, 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 or 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.

6. Respondent further understands that each and every condition outlined in this Consent Agreement and the Final Order 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.

7. It is understood that this agreement is subject to the approval of the Board. Should the Board, or its designee, modify or change the 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 this or any other proceedings.

8. In deciding to enter into this Consent Agreement and consenting to the entry of the 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 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.

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

10. Respondent acknowledges and agrees that neither this Consent Agreement or the Final Order are intended to be, nor will they 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 the Final Order, 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 every term and condition imposed in this Consent Agreement and the Final Order 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 or the Final Order.

11. Respondent acknowledges and understands that she will be responsible for payment of any costs associated with compliance with this Consent Agreement and the Final Order, and that it is her responsibility 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.

11. Respondent will pay costs in the sum of \$35.00 Said payment shall be made to the Board in cash or money order and shall be paid within 30 days of the entry of the Final Order.



13. By signing this Consent Agreement and consenting to the entry of the Final Order, Respondent acknowledges that she has read and understands this Consent Agreement and the Final Order, and agrees to be bound by their 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 the Final Order be entered.

*Cara Menicilly*

Respondent

*April*  
DATE ~~March~~ \_\_\_\_\_, 1999

STATE OF KANSAS                    )  
  )  
COUNTY OF JOHNSON            )

SS

Subscribed and Sworn to before me, this *2nd* day of ~~March~~ *April*, 1999.


*Sandra K. Doucey*  
Signature of Notary Public

**SANDRA K. DOUCEY**  
Notary Public - State of Kansas  
My Appt. Expires 10/19/2002

APPROVED

\_\_\_\_\_  
ANDREW MARQUARDT  
Attorney for Respondent

DATE March \_\_\_\_\_, 1999

  
\_\_\_\_\_  
REX G. BEASLEY  
Assistant Attorney General  
Disciplinary Counsel

DATE <sup>April</sup> March 8, 1999

**FINAL ORDER**

The provisions of the above Consent Agreement are hereby approved, adopted and made the Final Order of the Kansas State Board of Nursing.

**IT IS SO ORDERED.**

Dated this <sup>April</sup> 15<sup>th</sup> day of ~~March~~, 1999

  
\_\_\_\_\_  
TERRY E. BECK  
HEARING OFFICER