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**BEFORE THE KANSAS STATE BOARD OF NURSING**

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

**FILED**

**MAY 17 2010**

**KSBN**

**IN THE MATTER OF  
The Application of  
RAMONA Y. FICK**

**Case No. 10-126-0**

FILED - DAH

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**CONSENT AGREEMENT AND FINAL ORDER**

NOW ON THIS 17<sup>th</sup> day of May 2010, the Kansas State Board of Nursing (Board), represented by Assistant Attorney General Brenda J. Clary, and Applicant Ramona Y. Fick hereby enter into this agreement and proffer evidence, and the hearing officer adopts the findings of fact and recommended disposition and enters a final order.

**AGREED FINDINGS OF FACT**

1. Applicant has applied for licensure by endorsement to practice nursing as a licensed practical nurse in Kansas. Applicant's address of record is PO Box 234, Norcatur, KS 67653.
2. Applicant understands that pursuant to K.S.A. 77-515, Applicant may be represented, at Applicant's expense, by an attorney during these proceedings.
3. Applicant acknowledges and understands her right, pursuant to K.S.A. 77-523, to respond, present evidence and argument, conduct cross-examination of witnesses, and submit rebuttal evidence, and Applicant explicitly waives those rights and voluntarily enters into this agreement instead of proceeding to such a hearing.
4. Applicant further waives all possible substantive and procedural motions and defenses that could be raised during an administrative hearing process pursuant to the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*
5. Applicant acknowledges and understands that, pursuant to K.S.A. 77-527, she would have the right to seek review of an initial order by filing a petition for review by the agency head, addressed to Mary Blubaugh, Executive Director, Kansas State Board of Nursing, within fifteen (15) days of the date an initial order is served. Applicant expressly waives review, and the

parties agree to the entry of a final order by a presiding officer designated pursuant to K.S.A. 77-514 and K.S.A. 77-527 to act on behalf of the Board.

6. Applicant acknowledges and understands that, pursuant to the Kansas Judicial Review Act (KJRA), K.S.A. 77-601 *et seq.*, she would have the right to seek judicial review of an adverse final agency action by filing a petition for review with the district court within 30 days after service of a final order and serving the petition on Mary Blubaugh, Executive Director, Kansas State Board of Nursing. Applicant expressly waives judicial review.

7. Applicant acknowledges and understands that, upon signature by the parties and the presiding officer, 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, or any information or records of substance abuse evaluation and/or treatment contained herein.

8. The parties agree that, after an investigation, the Board's investigative committee found reasonable grounds to believe that Applicant's application for a license could be denied pursuant to K.S.A. 65-1120(a), or that Applicant had otherwise violated the Nurse Practice Act, and referred this matter for further proceedings.

9. Applicant stipulates and agrees that the Board is prepared to prove that Applicant was convicted of criminal failure to appear, a misdemeanor, in August 2004 in the District Court of Norfolk, Virginia, and on her application for endorsement, Applicant denied ever having been convicted of a misdemeanor.

#### **CONCLUSIONS OF LAW**

10. 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 upon making any of the findings listed under K.S.A. 65-1120(a), or may levy administrative fines

consistent with K.S.A. 74-1110, if any other violation of the Kansas Nurse Practice Act is established

11. The KSBN has jurisdiction over the Applicant and the subject matter of this action.

12. Based on the false or inaccurate representation on the application, the Board may deny or limit Applicant's license on the following grounds: K.S.A. 65-1120(a)(6), 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.

13. 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.

#### **POLICY STATEMENT**

14. The role of the Kansas State Board of Nursing is to protect citizens of Kansas, and the proposed action furthers that purpose by promoting truthfulness and accuracy in the application process and in the practice of nursing.

#### **DISPOSITION**

15. Upon the parties' entering into this Consent Agreement and with Applicant having met all statutory requirements for a Kansas Nursing license, the Applicant's application for licensure by endorsement will be granted.

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

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

18. The Kansas State Board of Nursing will not take additional disciplinary action against Applicant's nursing license for the violations stated above as long as Applicant completes each of the following conditions and requirements:

(a) Applicant shall not seek or accept employment with a nursing registry, a temporary nursing service or agency, a hospice care facility or agency, or as a home health care provider, or as a private duty nurse, or as an MDS coordinator, until after Applicant has submitted four (4) performance reports as described in subparagraph (c) of this paragraph.

(b) Prior to Applicant's securing employment that utilizes her nursing license, Applicant is to mail to the Kansas State Board of Nursing a statement indicating that Applicant has not yet secured employment which utilizes Applicant's nursing license. This statement is due by the first day of each calendar month beginning the first month after the effective date of this consent agreement.

(c) Once Applicant is employed in a position that utilizes her nursing license, or if Applicant is currently employed in a position that utilizes her nursing license, a nursing performance report is due by the 1<sup>st</sup> day of every third Month until Applicant has caused the submission of four (4) separate nursing performance reports.

(d) This agreement will be satisfied once the respondent has caused the submission of four (4) separate quarterly nursing performance reports. Applicant will Submit Reports from the Applicant'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.

(e) The report shall be prepared and signed by Applicant's immediate supervisor or by an R.N. who evaluates Applicant's performance on a regular basis and be based on the following guidelines:

- (1) Incorporation of information on facility letterhead stationary is preferred.
- (2) Letter format is acceptable, with the date of the report identified.
- (3) Evaluator's name, telephone number, address, license number and nursing credentials.
- (4) Applicant's name, address, telephone number, license number.
- (5) A short explanation of the Applicant's work performance in the following areas:
  - (a) Standards met regarding facility policies and procedures.
  - (b) Compliance with the Kansas Nurse Practice Act.
  - (c) Supervisor evaluations.
  - (d) Overall appropriateness.
  - (e) Interactions with patients.
  - (f) Interactions with staff and administration.

Applicant may choose to use a Nursing Performance Report Form which can be obtained from the KSBN website. ([www.ksbn.org](http://www.ksbn.org))

(d) The Applicant shall immediately inform all employers and prospective employers of this Consent Agreement and the Final Order.

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

(h) Applicant shall not violate the Kansas Nurse Practice Act during the duration of this agreement.

(i) Applicant 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 agreement.

(j) Applicant 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.

19. Applicant acknowledges and agrees that Applicant is responsible for the costs related to satisfying the conditions and requirements of this Consent Agreement. Applicant 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.

20. If Applicant does not meet these conditions and requirements, the Kansas State Board of Nursing may impose additional sanctions against Applicant's license. Applicant would be sent notice of such action and would be entitled to a hearing as to whether Applicant had complied with this Consent Agreement, but Applicant could not contest the violations listed in this agreement.

21. 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 Applicant and the Applicant's attorney of record, if any. All parties agree that serving the Notice of Hearing upon the Applicant only will be proper service and it is the Applicant's responsibility to contact his or her attorney, if any, in reference to the action.

22. Applicant 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.

23. Applicant acknowledges and agrees that upon a first finding that Applicant has failed to comply with any of the conditions or requirements of this Consent Agreement, the Stay of Suspension of Applicant'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. Applicant will not be allowed to practice nursing in the state of Kansas during the period of suspension. Applicant acknowledges and agrees that all conditions and requirements of this Consent Agreement remain in effect during the period of suspension.

24. Applicant acknowledges and agrees that upon a second or subsequent finding that Applicant has failed to comply with any of the conditions or requirements of this Consent Agreement the Applicant's license to practice nursing in the State of Kansas will be revoked.

25. The Board will inactivate this case file and issue an unencumbered license once Applicant satisfies this agreement. This agreement does not prohibit the agency from taking disciplinary action against Applicant's license for any additional or cumulative violation of the Kansas Nurse Practice Act committed by the Applicant before or after this agreement is entered into.

26. This agreement is a disciplinary action 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.

27. By signing this Consent Agreement and Final Order, Applicant acknowledges that Applicant has read and 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.

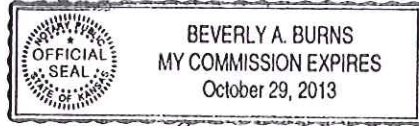
28. The hearing/presiding officer whose signature appears below has been designated pursuant to K.S.A. 77-514 and K.S.A. 77-526 to act on behalf of the Board/agency head and to hear discipline cases on behalf of the Board/agency head and to render either initial orders or final orders, if by agreement of both parties, in those discipline cases.

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

[Redacted]

Ramona Y. Fick  
Applicant  
PO Box 234  
Norcatur, KS 67653

Ramona Y. Fick must sign before a Notary Public.



*Beverly A. Burns*

[Redacted]

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.

[Redacted]

Sandra L. Sharon, Presiding Officer

CERTIFICATE OF SERVICE

On the 19<sup>th</sup> day of May, 2010, I mailed a copy of this CONSENT AGREEMENT AND FINAL ORDER to:

Ramona Y. Fick  
PO Box 234  
Norcatur, KS 67653

[Redacted]

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