

**BEFORE THE KANSAS STATE BOARD OF NURSING**

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

**FILED**

DEC 22 2008

**IN THE MATTER OF**

**MANDY L. BERRY**

**License No. 13-092303-062**

**KSBN**

FILED - OAH

24 DEC '08 AMB:59

**Case Nos. #08-808-5, #08-457-5**

**CONSENT AGREEMENT TO SURRENDER AND REVOKE LICENSE AND FINAL ORDER**

NOW ON THIS 24<sup>th</sup> day of December, 2008, the Kansas State Board of Nursing, represented by Assistant Attorney General, Alma A. Heckler, and the Licensee, Mandy L. Berry, 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**

The hearing 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 6/30/2010. 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 1725 S. Lark Ct., Wichita, KS 67209.
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) The Respondent has a prior investigation #08-457-5. She was referred to the Kansas Nurse Assistance Program (KNAP) due to concerns by an employer, Specialty Hospital, that she was diverting medications and working while impaired.

(b) Respondent was referred to KNAP and she signed an extended evaluation on 6/30/08. She failed to follow through with KNAP and was discharged unsuccessfully from a treatment program because she continued to use drugs for which she did not have a prescription. On or about 11/6/08, the respondent's KNAP case was closed for non-compliance.

(c) The respondent was contacted by the investigator for the Kansas Board of Nursing on 10/7/08 and the respondent recontacted the investigator on 10/8/08. On 10/8/08 the respondent admitted to the investigator she had become addicted to her pain medications.

(d) On 11/6/08 respondent was contacted by the investigator after KNAP notified the board, the respondent had been closed for non-compliance, she reported she was going to a new doctor and did not need in-patient treatment. Licensee offered to give up her nursing license rather than go back to KNAP or to treatment.

### **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. Count 1: 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 2: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(n), diverting drugs, supplies, or property of any patient or agency.

Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(s), failing to complete the requirements of the impaired provider program of the board.

### **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.


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.

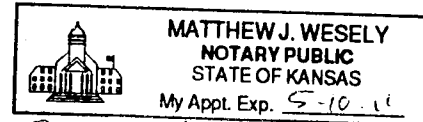
18. By their signatures, the parties hereby acknowledge this agreement.


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

**IT IS SO ORDERED.**

  
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Mandy L. Berry  
Respondent  
1725 S. Lark Ct.  
Wichita, KS 67209

Mandy L. Berry must sign before a Notary Public.



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

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Sandra L. Sharon, Presiding Officer

CERTIFICATE OF SERVICE

On the 30<sup>th</sup> day of December, 2008, I mailed a copy of this CONSENT AGREEMENT TO SURRENDER AND REVOKE LICENSE AND FINAL ORDER to:

Mandy L. Berry  
1725 S. Lark Ct.  
Wichita, KS 67209

  
Alma A. Heckler, #11555  
Assistant Attorney General

