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JUN 5 2009

KSBN

**BEFORE THE KANSAS STATE BOARD OF NURSING**

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

**IN THE MATTER OF**

**KELLY A. WASSON**

**License No. 23-03112A-021**

**Case No. 07-1181-8**

**CONSENT AGREEMENT AND FINAL ORDER**

NOW ON THIS 5 day of June, 2009, the Kansas State Board of Nursing, represented by Assistant Attorney General, Alma A. Heckler, and the Respondent, Kelly A. Wasson, also appearing by her attorney, William C. Rein, of the law firm SCOTT, QUINLAN, WILLARD, BARNES & KEESHAN, L.L.C., 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**

1. Respondent is licensed to practice nursing in Kansas through 2/28/2011. The Kansas State Board of Nursing ("KSBN") has jurisdiction over the Respondent and the subject matter of this action.

2. Respondent's address of record is 123 SW Sanneman Drive, Topeka, KS 66609.

3. After an investigation, the Board's investigative committee found reasonable grounds to believe that the Respondent

violated the Kansas Nurse Practice Act, K.S.A. 65-1120 and referred this matter for further proceedings.

4. The KSBN 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.

5. (a) Respondent acknowledges that she [REDACTED]

[REDACTED]  
[REDACTED] She further acknowledges that at the time of her [REDACTED] she admitted to use of marijuana, methamphetamine, and alcohol. [REDACTED]

[REDACTED]

(b) On or about August 29, 2006, Respondent

admitted that she had used methamphetamine [REDACTED]

[REDACTED]

(c) Respondent affirmatively states that she never used prohibited drugs while working as a licensed nurse, never diverted drugs prescribed for patients, and was never counseled for failing to practice nursing with reasonable skill and safety by an employer.

6. The Respondent understands and agrees that the Board is prepared to file a formal administrative action to prove that she has violated the Kansas Nurse Practice Act at K.S.A. 65-1120(a)(4). Any formal administrative action would allege that the Respondent was unable to practice nursing with skill and safety due to current abuse of drugs or alcohol.

7. Respondent has the right to a hearing with evidence and witnesses 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. These rights have been further explained to the Respondent by her attorney, William C. Rein. Nonetheless, Respondent is waiving those rights and voluntarily entering into this Agreement instead

of proceeding with a formal administrative hearing.

8. In an effort to avoid more formal proceedings under the Kansas Administrative Procedure Act, the parties agree to the following Conclusions of Law, Policy Statement, and Disposition.

**CONCLUSIONS OF LAW**

9. The KSBN 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 the Kansas Nurse Practice Act, including K.S.A. 65-1120, is established.

10. (a) Respondent agrees that the Board is prepared to file a formal administrative action to prove that she has violated the Kansas Nurse Practice Act, as follows:

**Count I.** K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol.

(b) The Respondent denies that she is unable to practice nursing with skill and safety. The Respondent further alleges that she has not used drugs since April, 2006.

**POLICY STATEMENT**

11. The role of the KSBN is to protect the citizens of

Kansas.

**DISPOSITION**

12. By entering into this Consent Agreement and Final Order ("Consent Agreement"), both parties waive their right to a full administrative proceeding pursuant to K.S.A. 65-1120 and K.S.A. 77-501, et seq. and to judicial review.

13. Upon the parties entering into this Consent Agreement and with the Respondent having met all statutory requirements for reinstatement of Respondent's Kansas Nursing license, the Respondent's application for reinstatement of her Kansas Nursing license will be granted.

14. The Respondent understands that any material failure to complete the conditions and requirements of this Consent Agreement will authorize the KSBN to file or proceed with a formal administrative action to discipline her, including the right to seek a suspension or revocation of her license, pursuant to the Kansas Administrative Procedure Act. Both parties agree that this Consent Agreement will continue through any renewal periods of Respondent's nursing license until Respondent completes each of the conditions and requirements of this Agreement. Although the Respondent does not intend to let her license lapse, the parties agree that in the event of a lapse of Respondent's nursing license, reinstatement of Respondent's nursing license shall be contingent

upon this Consent Agreement and Final Order remaining in effect until Respondent completes each of the conditions and requirements of this agreement. No new agreement will be necessary prior to reinstatement of Respondent's nursing license in the event she allows her license to lapse.

15. Based upon this Consent Agreement, both parties agree that the Respondent's license is subject to immediate suspension pursuant to the provisions of K.S.A. 77-536 [Emergency Proceedings] pursuant to the Kansas Administrative Procedure Act. Respondent further agrees and understands that the board may use emergency proceedings to take any disciplinary action it deems appropriate if she violates the requirements and conditions of this Consent Agreement. Disciplinary remedies available to the Board are set forth at K.S.A. 65-1120. The Respondent agrees that she is familiar with the provisions of that statute.

16. KSBN will not take any disciplinary action against the Respondent's nursing license as long as she completes each of the following conditions and requirements:

(a) Respondent will participate in and complete the reasonable recommendations and requirements of the Kansas Nurse's Assistance Program ("KNAP"); sign releases of information necessary for KNAP to evaluate and monitor Respondent and for KNAP to report information to the Board.

(b) Respondent will be deemed to have completed the KNAP program when KNAP issues written

notification that Respondent has completed the program. Respondent must enroll in the KNAP program within thirty (30) days of entering this Agreement. Non-compliance with conditions of the KNAP program is a violation of this Consent Agreement which will authorize the KSBN to take formal administrative action against the Respondent's nursing license, including emergency proceedings.

(c) Respondent must submit to random drug screens as determined or selected by the Board or by KNAP. The cost of the drug screens will be paid by the Respondent. Respondent agrees that a Positive Drug Screen is a violation of this Agreement. Non-compliance with conditions of the KNAP program is a violation of this Consent Agreement which will authorize the KSBN to take formal administrative action against the Respondent's nursing license, including emergency proceedings.

(d) Respondent's nursing license shall not be limited or restricted as long as she continues to comply with the conditions of this Consent Agreement. However, Respondent understands and agrees that any material violation of this Consent Agreement will constitute grounds for the Board to file a formal administrative action against her nursing license or result in a limited or restricted license without additional formal proceedings upon the consent of both parties in a separate Agreement.

(e) Respondent shall immediately notify the legal division of any use of alcohol, if prohibited by KNAP, or controlled substances, or any violation of this Consent Agreement.

(f) Respondent shall send a money order for \$70 to the Board upon entering into this Consent Agreement to pay the cost of this action.

(g) Respondent shall not violate the Kansas Nurse Practice Act during the duration of this Consent Agreement.

(h) Respondent shall not violate the laws of the United States, of state, or of any political subdivision of any state during the term of this Agreement. Traffic infractions shall not be considered violations of the law.

(i) Licensee will inform the Board of any changes in her employment which require the use of her nursing license. Such reports shall be sent to the Legal Division, Kansas State Board of Nursing, Landon State Office Bldg., 900 SW Jackson, Suite 1051, Topeka, KS 66612-1230. Upon securing employment which utilizes Licensee's nursing license, a statement is due from Licensee by the 10<sup>th</sup> day after beginning each new employment. In addition, Licensee shall inform the Board's Legal Division at the above address of any written reprimand by an employer involving Licensee's professional practice. A copy of the written reprimand shall be sent by telephone facsimile to the attention of the Legal Division of the Board at (785) 296-3929. Upon receiving a copy of the written reprimand from an employer, the Licensee shall fully cooperate with attorneys and investigators representing the Board in conducting an investigation of the reprimand. In addition, Licensee agrees and understands that the Board may contact Licensee's employer to discuss the reprimand and determine whether disciplinary action should be taken, including emergency proceedings.

(j) Licensee agrees to notify the Legal Division of any changes in address and telephone number, in writing, within fourteen (14) days of such a change.

(k) Respondent will Submit Reports from the Respondent's employer, to the attention of the Legal Division, Kansas State Board of Nursing, Landon State Office Bldg., 900 SW Jackson, Suite 1051, Topeka, KS 66612-1230 on the following schedule: Prior to Respondent securing employment that utilizes his or her nursing license, Respondent is to mail to the Kansas State Board of Nursing a statement indicating that Respondent has

not yet secured employment which utilizes Respondent's nursing license. This statement is due the 10<sup>th</sup> day of each month beginning the next month after signing this Consent Agreement. Once Respondent is employed in a position that utilizes his or her nursing license, or if Respondent is currently employed in a position that utilizes his or her nursing license, a nursing performance report is due by the 10<sup>th</sup> day of every third Month until Respondent has caused the submission of four (4) separate nursing performance reports. The report shall be prepared and signed by Respondent's immediate supervisor or by an R.N. who evaluates Respondent's performance on a regular basis and be based on the following guidelines:

- 1) Incorporation of information on facility letterhead stationery 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) Respondent's name, address, telephone number and license number;
- 5) A short explanation of the Respondent'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; and
  - f) Interactions with staff and administration.

17. Respondent acknowledges and agrees that she is responsible for the costs related to satisfy the conditions and requirements of this Consent Agreement. Respondent 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 and may lead to appropriate sanctions pursuant to the Kansas Administrative Procedure Act, including emergency proceedings.

18. If Respondent does not meet this conditions and requirements, KSBN may request additional sanctions against Respondent's license or application for a license. Respondent would be sent notice of such action and would be entitled to a hearing as to whether Respondent had complied with this Consent Agreement.

19. 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 Respondent. It will be the Respondent's duty to seek legal counsel if she so chooses after receiving any Notice of Hearing. The Board, may, in its discretion, notify any attorney of record that a Notice of Hearing has been served upon the Respondent.

20. The Board will inactivate this case file once

Respondent satisfies this Consent Agreement. This Consent Agreement does not prohibit the Agency from taking disciplinary action against Respondent's license for singular or cumulative violations of the Kansas Nurse Practice Act committed by the Respondent before or after this Consent Agreement is entered into. The Respondent understands and agrees that this Consent Agreement is being entered into by the parties to resolve an investigative case. The original of this Consent Agreement shall be placed in the Agency Record.

21. After successful completion of all of the conditions and requirements of this Consent Agreement by the Respondent, the Consent Agreement will be satisfied and the case will be inactivated.

22. By signing this Consent Agreement, the Respondent acknowledges that she 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.

23. 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 disciplinary cases.

**IN WITNESS WHEREOF**, the parties hereto execute this Consent Agreement and Final Order.

**IT IS SO ORDERED.**

*[Signature]*  
\_\_\_\_\_  
Sandra L. Sharon,  
Presiding Officer

APPROVED BY: *[Signature]*  
\_\_\_\_\_  
Alma A. Heckler, #11555

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

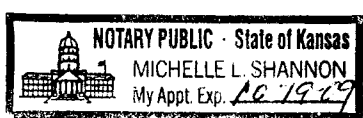
SCOTT, QUINLAN, WILLARD,  
BARNES & KEESHAN, L.L.C.

*[Signature]*  
\_\_\_\_\_  
William C. Rein, #09579  
3301 SW Van Buren Street  
Topeka, KS 66611-2225  
(785) 267-0040  
(785) 267-6745 Fax  
Attorney for Respondent/  
Licensee

SUBSCRIBED AND SWORN TO BEFORE  
me this 5th day of June,  
2009.

*[Signature]*  
\_\_\_\_\_  
Michelle L. Shannon  
Notary Public

*[Signature]*  
\_\_\_\_\_  
Kelly A. Wasson,  
Respondent/Licensee  
123 SW Sanneman Drive  
Topeka, KS 66609




**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above and foregoing **CONSENT AGREEMENT AND FINAL ORDER** was mailed this 9 day of June, 2009, in the United States Mail, postage prepaid, addressed as follows:

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

Ms. Kelly A. Wasson  
123 SW Sanneman Drive  
Topeka, KS 66609

Mr. William C. Rein  
SCOTT, QUINLAN, WILLARD,  
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3301 SW Van Buren Street  
Topeka, KS 66611-2225

  
Staff  
Office of Ad. Hearings