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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 OAH
FILED****IN THE MATTER OF****MELISSA A. RALSTON****License No. 23-31127-121, RN applicant****AUG 17 2011****KSBN****Case No. 09-857-8, 10-1638-8**

**FINAL ORDER
AND CONSENT AGREEMENT**

NOW ON THIS 17th day of August, 2011, the Kansas State Board of Nursing, represented by Assistant Attorney General, Danielle R. Sanger, and the Respondent, Melissa A. Ralston, 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 submitted an initial RN application on 11/22/2010. 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 3829 SW Burlingame #8, Topeka KS 66609.
3. The Respondent understands that pursuant to K.S.A. 77-515, Respondent may be represented, at Respondent's expense, by an attorney during these proceedings.
4. Respondent acknowledges that this agreement is an open record pursuant to the Kansas Open Records Act, K.S.A 45-215 *et seq.*, and may be published or disseminated.
5. The Kansas State Board of Nursing shall examine, license and renew licenses of duly qualified applicants under the authority of K.S.A. 74-1106 *et seq.* Under the authority of K.S.A. 65-1120, the Kansas State Board of Nursing may deny, revoke, limit or suspend a license or authorization to practice nursing or 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.

6. On or about 04/28/1998, Respondent was convicted of a misdemeanor, possession of drug paraphernalia, in Grove Municipal Court, Grove Oklahoma.
7. On or about 2/4/2002, the Board received Respondent's initial LPN application.
8. On her initial LPN application, Respondent answered "no" to the question, "Have you ever been convicted of a misdemeanor or felony?"
9. On her 2003 renewal LPN application, Respondent answered "no" to the question, "Have you ever been convicted of a misdemeanor?"
10. On her 2005 renewal LPN application, Respondent answered "no" to the question, "Have you ever been convicted of a misdemeanor?"
11. On or about 8/30/2006, Respondent was convicted of misdemeanors in Topeka Municipal Court, Topeka Kansas. The misdemeanors included: failure to use seat belt, failure to obey person directing traffic, and driving without a driver's license on person.
12. On her 2007 renewal LPN application, Respondent answered "no" to the question, "Have you ever been convicted of a misdemeanor?"
13. On her 2009 renewal LPN application, Respondent answered "no" to the question, "Have you ever been convicted of a misdemeanor?"
14. On or about 11/22/2010, the Board received Respondent's initial RN application.
15. On her initial RN application, Respondent answered "no" to the question, "Have you ever been convicted of a misdemeanor listed in KAR 60-3-113?"
16. Respondent provided urine drug screens for the Kansas Department of Social and Rehabilitation Services as part of a child in need of care case involving her children. Respondent's urine drug screens tested positive for marijuana on 12/21/2007, 1/17/2008, 1/23/2008, and 1/29/2008.

17. The above incidents are violations of the Nurse Practice Act. The Respondent agrees that the Board is prepared to prove that Respondent has violated:
- a. K.S.A. 65-1120(a)(1): to be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing.
 - b. K.S.A. 65-1120(a)(2): to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust.
18. 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 Judicial Review Act. Respondent is waiving those rights and voluntarily entering into this agreement instead of proceeding to such a hearing.

CONCLUSIONS OF LAW

19. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 *et seq.* to examine, license and renew licenses for duly qualified applicants and deny, revoke, limit or suspend 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.
20. Respondent has violated the Kansas Nurse Practice Act as follows:
- a. K.S.A. 65-1120(a)(1): to be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing.
 - b. K.S.A. 65-1120(a)(2): to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust.

POLICY STATEMENT

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

DISPOSITION

22. 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.
23. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that this Final Order and 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. Further, 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 Final Order and Consent Agreement remaining in effect until Respondent completes each of the conditions and requirements of this agreement.
24. Based upon this agreement, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that the Respondent's RN application will be approved upon the Board receiving notification from KNAP that Respondent has signed the necessary releases, completed her initial evaluation, and entered into a contract with KNAP if her evaluation determines that further monitoring is necessary. Once Respondent's application is approved, her RN license in Kansas is immediately suspended with a stay.
25. The Kansas State Board of Nursing will not take additional disciplinary action against Respondent's nursing license for the violations stated above as long as Respondent completes each of the following conditions and requirements:
- a. **Respondent's license, once granted, is immediately suspended with a stay.**
 - b. **Respondent shall participate in and complete the reasonable recommendations and requirements of the Kansas Nurses Assistance Program (KNAP). Respondent shall sign releases of information necessary for KNAP to evaluate and monitor Respondent and for KNAP to report**

information to the Board, Attorney General's office, and Office of Administrative Hearings. Respondent will be deemed to have completed the KNAP program when KNAP issues written notification that Respondent has completed the program. If Respondent is not already enrolled, Respondent must enroll in the KNAP program within thirty (30) days of entering this agreement. Noncompliance with KNAP is a violation of this agreement.

- c. Respondent shall submit to random drug screens as determined or selected by the Board or by KNAP. The costs of the drug screens will be paid by the Respondent. Respondent agrees that a Positive Drug Screen is a violation of this agreement.
- d. Respondent shall immediately notify the Legal Division of any use of alcohol, if prohibited by KNAP, or controlled substances, or any violation of this Final Order and Consent Agreement.
- e. Respondent shall send a money order for \$70 to the Board upon entering into this agreement to pay the cost of this action.
- f. Respondent shall not violate the Kansas Nurse Practice Act during the duration of this agreement.
- g. Respondent 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 law.
- h. Respondent 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.
 - i. All such notifications shall be made in writing within fourteen (14) days of such a change.

- i. **Respondent acknowledges and agrees that Respondent is responsible for the costs related to satisfying the conditions and requirements of this Final Order and Consent Agreement. Respondent further acknowledges and agrees that to provide the Board with false information regarding compliance with this Final Order and Consent Agreement is a violation of this Final Order and Consent Agreement.**

26. If Respondent does not meet these conditions and requirements, the Kansas State Board of Nursing 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 Final Order and Consent Agreement, but Respondent could not contest the violations listed in this agreement.
27. All parties understand that if an action based on failure to meet the conditions and requirements of this Final Order and Consent Agreement is filed, K.S.A. 77-531 requires the Notice of Hearing to be served upon the Respondent and the Respondent's attorney of record, if any.
28. Respondent acknowledges and agrees that if any notice based on failure to meet the conditions and requirements of this Final Order and Consent Agreement is filed during the term of this Final Order and Consent Agreement, or within 30 days after the expiration date, the conditions of this Final Order and Consent Agreement shall continue in effect until the Board takes final action in the proceeding.
29. Respondent acknowledges and agrees that upon a first finding of Respondent not complying with any of the conditions or requirements of this Final Order and Consent Agreement, the Stay of Suspension of Respondent'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. Respondent will not be allowed to practice nursing in the state of Kansas during the

period of suspension. Respondent acknowledges and agrees that all conditions and requirements of this Final Order and Consent Agreement remain in effect during the period of suspension.


30. Respondent acknowledges and agrees that upon a second or subsequent finding of Respondent not complying with any of the conditions or requirements of this Final Order and Consent Agreement the Stay of Suspension of Respondent's license to practice nursing in the State of Kansas shall be lifted for a period of one year from the date of said finding. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension. Respondent acknowledges and agrees that all conditions and requirements of this Final Order and Consent Agreement remain in effect during the period of suspension.
31. Respondent acknowledges and agrees that upon the Stay of Suspension being lifted due to a finding of non-compliance with any of the conditions or requirements of this Final Order and Consent Agreement, the Suspension will not again be Stayed until the Respondent has, following the prescribed time period of suspension, provided written verification to the Board that Respondent is in compliance and has remained in compliance during the period of suspension, with all conditions and requirements of this Final Order and Consent Agreement. Upon the Respondent providing said written verification, the suspension will again be stayed.
32. This agreement does not prohibit the agency from taking disciplinary action against Respondent's license for any additional or cumulative violation of the Kansas Nurse Practice Act committed by the Respondent before or after this agreement is entered into.
33. This agreement is a discipline 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.

34. After successful completion of all of the conditions and requirements of this Final Order and Consent Agreement by the Respondent, the Final Order and Consent Agreement will be satisfied and the case will be inactivated.
35. By signing this Final Order and Consent Agreement, Respondent acknowledges that Respondent has read and understands the entire document and agrees to be bound by its terms. This Final Order and Consent Agreement 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 Final Order and Consent Agreement is the date shown on the certificate of service.
36. 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.

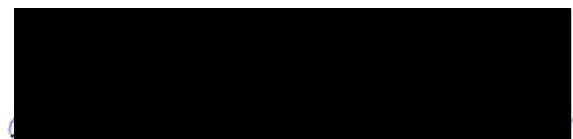
IN WITNESS WHEREOF, the parties hereto execute this FINAL ORDER AND CONSENT AGREEMENT.

IT IS SO ORDERED

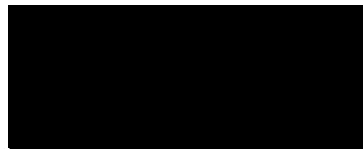

Melissa Ralston
Respondent
3829 SW Burlingame #8
Topeka KS 66609

8-1-2011
Melissa Ralston must sign in front of a notary public.





Danielle R. Sanger, #24587
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612



Sandra Sharon, Presiding Officer

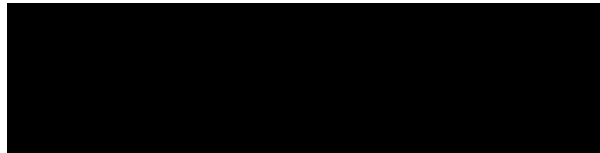
Pursuant to K.S.A. 77-527, either party may request a review of this final order by filing a petition for reconsideration with the Kansas State Board of Nursing. A petition for reconsideration must be filed within 15 days from the date this final order was served. Failure to timely request a reconsideration by the Kansas State Board of Nursing may preclude further judicial review. The petition for reconsideration shall be mailed or personally delivered to: Mary Blubaugh, Executive Director, Board of Nursing, Landon State Office Building, Suite 1051, 900 SW Jackson, Topeka, KS 66612-1230.

Pursuant to K.S.A. 77-531, if the final order is served by mail, three days are added to the time limits set out above.

CERTIFICATE OF SERVICE

I certify that on the 18th day of August, 2011, the foregoing copy of the FINAL ORDER AND CONSENT AGREEMENT was deposited in the United States Mail, first-class postage prepaid, addressed to the following:

Melissa Ralston
3829 SW Burlingame #8
Topeka KS 66609



Danielle R. Sanger, #24587
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

RECEIVED
JUL 20 2011
TOPEKA, KS
STATE BOARD OF NURSING