

**STATE OF TENNESSEE  
DEPARTMENT OF HEALTH**

<b>IN THE MATTER OF:</b>	)	<b>BEFORE THE BOARD OF NURSING</b>
	)	
<b>JAMEY D. HAGAN, R.N.</b>	)	
<b>RESPONDENT</b>	)	<b>CASE NO. 200800577</b>
	)	
<b>LICENSE NO. 137777</b>	)	
<b>COLUMBIA, TENNESSEE</b>	)	

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**CONSENT ORDER**

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This matter came to be heard before the Tennessee Board of Nursing (hereinafter “the Board”) on the \_\_\_\_\_ day of March, 2009, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and Jamey D. Hagan (hereinafter “Respondent”) that the Board adopt this Consent Order, the terms of which have been agreed upon by the parties, as signified by their signatures below.

Respondent agrees that presentation to and consideration of this Consent Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should the Consent Order not be ratified. Likewise, all matters, admissions, and statements disclosed or exchanged during the attempted ratification process shall not be used against Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

Respondent understands the nature of the charges herein alleged and that if proved at hearing, such charges and allegations would constitute cause for imposing discipline upon Respondent’s license issued by the Board.

Respondent is aware of each of Respondent’s rights, including the right to a hearing on the charges and allegations; the right to appear personally and by counsel; the right to confront and

cross-examine witnesses who would testify against Respondent; the right to testify and present evidence on Respondent's own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to contest the charges and allegations; and other rights which are afforded Respondent pursuant to the Uniform Administrative Procedures Act and other applicable laws, including the right to seek reconsideration, review by the Chancery Court, and appellate review.

In order to avoid the expense and uncertainty of a hearing, Respondent freely and voluntarily waives each and every one of these rights set forth above and admits the truth of the allegations herein contained. Respondent agrees that cause exists to discipline his license.

Respondent understands that by signing this Consent Order, Respondent is enabling the Board to issue its order without further process. In the event that this Consent Order is rejected for any reason by the Board, it will be of no force or effect for either party.

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### **STIPULATIONS OF FACT**

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1. Respondent has been at all times pertinent hereto licensed by the Board as a registered nurse in the State of Tennessee, having been granted license number 137777 on October 22, 2002. Respondent's license will expire on July 31, 2010.
2. Respondent's license bears a multistate privilege to practice nursing in states which have entered into the Interstate Nurse Licensure Compact.
3. Beginning in 2005, while working as a traveling nurse, Respondent began diverting and using Dilaudid and Fentanyl. Upon getting married in 2006, he stopped using drugs for a time. However, in February 2006, a narcotic shortage was discovered at a surgery center where Respondent worked, and he confessed to taking the drugs and sought the assistance of the Tennessee Professional Assistance Program (hereinafter "TNPAP"). At TNPAP's

suggestion, Respondent entered a thirty (30) day treatment program at the Cumberland Heights Alcohol and Drug Treatment Center followed by an additional two (2) weeks in the extended care program for professionals. Respondent subsequently entered into a three (3) year standard contract with TNPAP in May 2007.

4. In the fall of 2007, Respondent was diagnosed with ADHD and prescribed Adderall XR, which is an amphetamine-type drug. Respondent began doubling up on the dosage he was taking of Adderall XR. On or about February 1, 2008, when Respondent ran out of Adderall XR prior to a prescription refill date, he wrote a prescription for himself for the medication on the prescription pad of the physician for whom he worked and forged the physician's signature. The forgery was discovered when Respondent attempted to have the prescription filled at a Columbia, Tennessee pharmacy.
5. As a result of the forgery of the Adderall XR prescription, Respondent's TNPAP contract was extended by one year. Respondent continues to maintain the advocacy of TNPAP.
6. On or about August 5, 2008, Respondent entered a plea of guilty to one count of felony prescription fraud in the Criminal Court of Maury County, Tennessee pursuant to the judicial diversion provisions of Tennessee Code Annotated Section 40-35-313(a)(1)(A). In response, the Court did not enter a judgment of guilty, but instead deferred further proceedings against Respondent. Pursuant to Tennessee Code Annotated Section 40-35-313, the Court did, however, place Respondent on diversion with three (3) years probation. Upon successful completion of the probation, the Court will discharge Respondent and dismiss the proceedings against him pursuant to Tennessee Code Annotated Section 40-35-313(a)(2).

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## GROUNDS FOR DISCIPLINE

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The facts stated above are sufficient to establish that grounds for discipline of Respondent's nursing license exist. Specifically, Respondent has violated the Nurse Practice Act found in Title 63, Chapter 7 of the Tennessee Code Annotated, for which disciplinary action before and by the Board is authorized.

7. The facts stated in paragraphs four (4) and six (6) are sufficient to establish a violation of **Tenn. Code Ann. § 63-7-115(a)(1)(F)**:

Is guilty of unprofessional conduct.

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## REASONS FOR THE DECISION

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8. The Board is responsible for the regulation and supervision of the practice of nursing in the State of Tennessee. Tenn. Code Ann. § 63-7-101, *et seq.*
9. It is the policy of the Board to require strict compliance with the laws of this state and to apply the laws so as to preserve the quality of nursing care provided in Tennessee.
10. It is the duty and responsibility of the Board to enforce the Nurse Practice Act in such a manner as to insure that nurses use their licenses to promote and protect the public health, safety, and welfare.
11. It is the duty and responsibility of the Board to promote the public health, safety, and welfare by disciplining nurses who violate the Nurse Practice Act.

**THEREFORE**, in view of the above **STIPULATIONS OF FACT, GROUNDS FOR DISCIPLINE**, and **REASONS FOR THE DECISION**, it is hereby **ORDERED** as follows:

- a. Respondent's consent to the terms and conditions of this Order is accepted.

- b. Respondent's license to practice nursing in Tennessee and the multistate privilege to practice in compact states, pursuant to the authority vested in the Board under Tenn. Code Ann. § 63-7-115 and Tenn. Code Ann. § 63-7-116, shall be and is hereby placed on **PROBATION**, upon the effective date of this Order.
- c. The **PROBATION** shall be for a period of time to run concurrent with Respondent's current TNPAP contract or any extension thereto. However, Respondent's **PROBATION** shall be for **no less than one (1) year**.
- d. As a condition of the **PROBATION**, Respondent shall comply with each and every term of the TNPAP contract and shall comply with any and all recommendations, including any extensions and/or modifications thereto.
- e. Respondent agrees to limit his practice of nursing to Tennessee and not to practice in any other party state during the term of the **PROBATION**.
- f. The **PROBATION** is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (HIPD).
- g. Respondent shall pay the costs of this action pursuant to Tenn. Code Ann. § 63-7-115(d), Tenn. Code Ann. § 63-1-144, and Tenn. Comp. R. & Regs. 1000-1-.04(11). These costs will be established by an Affidavit of Costs prepared by counsel for the Department and shall not exceed Five Thousand Dollars (\$5,000.00).
- h. Costs shall be paid by means of a *certified check, cashier's check, or money order* payable to the State of Tennessee which shall be mailed or delivered to the **Disciplinary Coordinator, Division of Health Related Boards, Tennessee Department of Health, Heritage Place – Metro Center, 227 French Landing, Suite 201, Nashville, Tennessee 37243**. A notation shall be placed on said check

or money order that it is payable for the costs of Jamey D. Hagan, Case No. 200800577.

- i. A **violation** of this Order shall constitute a **separate violation** of the Nurse Practice Act, Tenn. Code Ann. § 63-7-115(a)(1)(G), and is grounds for further disciplinary action by the Board.

This **CONSENT ORDER** has been approved by a majority of a quorum of the Board at a public meeting and signed this \_\_\_\_\_ day of March, 2009.

**FOR THE TENNESSEE BOARD OF NURSING:**

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Chairperson

**AGREED TO AND APPROVED FOR ENTRY:**

\_\_\_\_\_  
Jamey D. Hagan, RN # 137777  
Respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Frank J. Scanlon, Esq. BPR # \_\_\_\_\_  
Watkins & McNeilly, PLLC  
214 Second Avenue North, Suite 300  
Nashville, Tennessee 37201

\_\_\_\_\_  
Date

**PREPARED FOR ENTRY:**

\_\_\_\_\_  
Diona E. Layden, B.P.R. #020746  
Assistant General Counsel  
Office of General Counsel  
Tennessee Department of Health  
220 Athens Way, Suite 210  
Nashville, Tennessee 37243  
(615) 741-1611

\_\_\_\_\_  
Date

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document as entered has been served upon Respondent Jamey Hagan, through Respondent's Attorney Frank J. Scanlon, Esq., Watkins & McNeilly, PLLC 214 Second Avenue North, Suite 300 Nashville, Tennessee 37201 by delivering same in the United States Mail, Certified Mail Number **7007 0710 0004 1975 8655**, return receipt requested, and United States First-Class Mail, Postage Pre-Paid, with sufficient postage thereon to reach its destination.

This \_\_\_\_\_ day of March, 2009.

\_\_\_\_\_  
Diona E. Layden  
Assistant General Counsel