

BEFORE THE KANSAS STATE BOARD OF NURSING

FILED  
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DEC 11 2012 pab

IN THE MATTER OF  
MONICA S. DUNAVAN  
License No. 13-053825-041

Case No. 00-068-3, 02-2163,  
02-278-3, 06-307-3 and 11-579-3  
OAH No. 12BN0079

KSBN

**INITIAL ORDER**

NOW on this 14<sup>th</sup> day of November 2012, the above captioned matter comes on for hearing before the Kansas State Board of Nursing (Board). Sandra L. Sharon was duly appointed presiding officer pursuant to K.S.A. 77-514. The petitioner, the Kansas State Board of Nursing appears by its Assistant Attorney General, Alma A. Heckler, Disciplinary Counsel for the Board. The respondent, Monica S. Dunavan appears in person.

Findings Of Fact

1. On or about January 25, 2011 the respondent was found in a locked bathroom of the Phillips County Retirement Center on the floor, unresponsive and not breathing. Co-workers worked to revive the respondent while emergency transport services arrived at the facility to transport Ms. Dunavan to the Phillips County Hospital.
2. Pam Dibble accompanied the respondent to the hospital. At the hospital the respondent told Ms. Dibble she had used a pain patch taken off of a resident. The respondent soaked the patch in liquid and used a syringe purchased by Orschelns to self inject herself with the substance.
3. The patch taken by the respondent was a Fentanyl 200 mcg.
4. On February 28, 2011 the respondent resigned her position at the Phillips County Retirement Center.
5. In approximately August and September the appellant was employed as an RN at Graham County Hospital. On August 20, 2012 she tested positive for Benzodiazepine .
6. On September 12, 2012 the respondent was terminated from her position at the Graham County Hospital. The reason for her termination was that her employer had lost confidence in her abilities as a nurse. The respondent was known to show confusion, slurring of speech, and would develop a strange gait. The respondent refused a blood test indicating she was afraid of needles.
7. Prior to the February 2011 incident at the Phillips County Retirement Center, the respondent has a history of many incidents of drug diversion dating back to 1988.
8. On January 30, 2004 the respondent entered into a Consent Agreement and Final Order with the Board wherein she admitted to drug diversion.

9. In the Consent Agreement and Final Order the respondent agreed to participate in the Kansas Nurse Assistance Program (KNAP). The respondent was found to be non-compliant with KNAP during her participation in the program but ultimately successfully completed the KNAP program in March 2009.
10. The Consent Agreement and Final Order remains in effect until remaining conditions are satisfied by the respondent.
11. The respondent acknowledges that she is guilty of drug diversion and has difficulty being around narcotics. She admits that if narcotics are available, she will use them.
12. The respondent believes that she could continue nursing in the capacity where she is not exposed to narcotics.

#### Conclusions Of Law

1. The Kansas State Board of Nursing has the authority to limit, deny, suspend, or revoke a license or authorization to practice nursing. If a violation of the Kansas Nurse Practice Act is established pursuant to K.S.A. 65-1120.
2. Grounds for disciplinary action by the Board include being guilty of unprofessional conduct by diverting drugs, supplies, or property of any patient or agency. K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(n).
3. It is also a violation of Kansas Nurse Practice Act to be unable to practice with skill and safety due to current abuse of drugs or alcohol. K.S.A. 65-1120(a)(4).

#### Conclusion

1. The respondent's diversion of Fentanyl patch belonging to a resident of Phillips County Retirement Center on January 25, 2011 is a violation of the Kansas Nurse Practice Act pursuant to K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(n).
2. When the respondent locked herself in a bathroom at the Phillips County Retirement Center on February 25, 2011 and injected herself with the solution soaked from a Fentanyl patch she violated the Kansas Nurse Practice Act by being unable to practice with skill and safety due to current abuse of drugs or alcohol. This is a violation of K.S.A. 65-1120(a)(4).
3. When the respondent tested positive at Graham County Hospital on August 22, 2012 for Benzodiazepine, she violated the Kansas Nurse Practice Act by being unable to practice with skill and safety due to current use of drugs and alcohol. This is a violation of the Kansas Nurse Practice Act at K.S.A. 65-1120(a)(4).

4. The respondent's performance at the Graham County Hospital culminating in her termination on September 12, 2012 due to her employer's lack of confidence in her performance due to suspected drug use is a violation of the Kansas Nurse Practice Act at K.S.A. 65-1120(a)(4).

Order

1. The Board's petition to revoke the respondent's license to practice nursing in the State of Kansas is affirmed.
2. The cost of this action shall be assessed to the respondent in the amount of \$70.00.

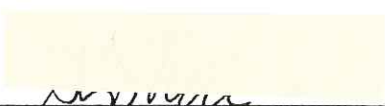
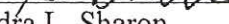
Appeal Rights and Other Administrative Relief

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

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

Pursuant to K.S.A. 77-530, if a request for review is not made in the time and manner stated above, this initial order shall become effective as a final order 30 days after service.

OFFICE OF ADMINISTRATIVE HEARINGS

  
  
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Sandra L. Sharon  
Administrative Law Judge/Presiding Officer  
Office of Administrative Hearings

CERTIFICATE OF SERVICE

On Dec. 11, 2012, I mailed this original document through State Building  
Mail to:

Mary Blubaugh  
Executive Administrator  
Kansas State Board of Nursing  
900 SW Jackson, LSOB, Ste. 1051  
Topeka, KS 66612  
Telephone: 785-296-4325

and a copy of this document through State Building Mail to:

Alma Heckler  
Assistant Attorney General  
Disciplinary Counsel for the Kansas State Board of Nursing  
900 SW Jackson, LSOB, Ste. 1051  
Topeka, KS 66612  
Telephone: 785-296-4325

and a copy of this document through first class mail to:

Monica Dunavan  
219 West Court  
Smith Center, KS 66967

  
\_\_\_\_\_  
Staff Person  
Office of Administrative Hearings