

IN THE MATTER OF

Case No. 01 181 3; 06 995 9;
10 1667 3Catherine L. Fiedler
License No. 13 088519 022

OAH No. 11BN0097

INITIAL ORDER

Now on this 3rd day of November 2011, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing. Sandra L. Sharon was duly appointed as Presiding Officer pursuant to K.S.A. 77-514. The Petitioner, the Kansas State Board of Nursing (Board), appears through Assistant Attorney General, Alma Heckler, Disciplinary Counsel for the Board. The Respondent, Catherine Fiedler, appears in person.

Findings of Fact

1. In January 2003 the respondent was referred to the Kansas Nurse Assistance Program (KNAP) by the Board. She enter into a 3 year contract with KNAP and successfully completed her contract in February 2006.
2. In April 2006 the respondent was convicted of misdemeanor possession of marijuana in McPherson County, Kansas [REDACTED]
3. While employed by Halstead Health and Rehabilitation in Halstead, Kansas on December 16, 2010, the respondent refused to take a drug screen urine analysis. The respondent asserts she quit her employment with Halstead Health and Rehabilitation. The employer reported to the board that it allowed the respondent to immediately resign.
4. The board referred the respondent to KNAP for a third time on December 29, 2010.
5. [REDACTED]
6. The respondent failed to follow through with KNAP's instructions and did not contact KNAP regarding this third referral.
7. By letter dated March 14, 2011 the respondent's case with KNAP was closed unsuccessfully.
8. On the unsuccessful closure of the respondent's case with KNAP, the Board Petitioned for revocation of the respondent's license to practice nursing in the state of Kansas. At the hearing, the respondent indicated that she was amenable to participate in the KNAP program, even though she had failed to follow through on the December 2010 referral.

Conclusions of Law

1. Pursuant to KSA 65-11 (a) the board has the authority to deny, revoke, limit, or suspend any license to practice nursing in the state of Kansas.
2. Reasons to deny, revoke, limit, or suspend license to practice nursing include;
 - A pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing. K.S.A. 65-1120 (e)(3).
 - To be unable to practice nursing with skill and safety due to current abuse of drugs or alcohol, K.S.A. 65-1120 (a)(4).
 - To participate in unprofessional conduct by define rules of the Board; including failing to comply with any disciplinary order of the board. K.S.A. 65-1120 (a)(6) and K.A.R. 60-3-110 (s).

Discussion

1. The appellant was first referred to KNAP when she tested positive for marijuana in January of 2003. Within a few months of her successfully completion of the KNAP program, in April 2006 the appellant was found guilty of possession of drug paraphernalia. In December 2010, the respondent refused a drug screen at the request of her employer. The respondent has demonstrated a pattern of practice which could cause incapacity or incompetence to practice nursing without the proper supervision. This is a violation of K.S.A. 65-1120 (e)(3).
2. The respondent's referral to take the urine analysis puts in questions her ability to practice nursing with skill and safety due to current abuse of drugs or alcohol. This is a violation of K.S.A. 65-1120 (a)(3).
3. Further, the appellant's referral to participate in the KNAP program is a violation of Kansas Nurse Practice Act by failing to complete the requirements of the impair provider program. This is in violation of K.S.A. 65-1120 (a)(6) and K.A.R. 60-3-110 (s).

Conclusion

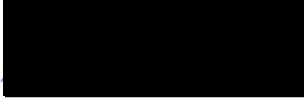
1. The respondent has violated the Kansas Nurse Practice Act and it cannot be established that she can practice nursing with skill and safety.
2. Because of the violations of the Kansas Nurse Practice Act, the Board's petition to revoke the respondent's license to practice nursing in the state of Kansas is granted.
3. The cost of this action shall be assist to the respondent in the amount of \$70.00 pursuant to K.S.A. 65-1120(d).

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, Suite 1051, 900 SW Jackson, 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.


Sandra L. Sharon
Administrative Law Judge/Presiding Officer
Office of Administrative Hearings
1020 S. Kansas Ave.
Topeka, KS 66612

CERTIFICATE OF SERVICE

On Mon 12/5, 2011, I mailed a copy of this document to:

Catherine L. Fiedler
322 S. Schmidt Ave.
Moundridge, KS 67107-0902

Alma A. 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


Staff Person
Office of Administrative Hearings