

## BEFORE THE KANSAS STATE BOARD OF NURSING

IN THE MATTER OF  
MELISSA ANN WRIGHT  
License No. 13-104790-071

Case No. 13-1998-7  
OAH No. 16BN0054

**INITIAL ORDER**

Now on this 31<sup>st</sup> day of May 2016, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing (Board/Petitioner) pursuant to K.S.A. 77-536. Sandra L. Sharon was duly appointed Presiding Officer/Administrative Law Judge pursuant to K.S.A. 77-514. The Petitioner, the Kansas State Board of Nursing, appears by Assistant Attorney General Bryce D. Benedict, Disciplinary Counsel for the Board. The respondent, Melissa Ann Wright, appears through her attorney, R.E. "Tuck" Duncan and in person.

Findings of Fact

1. The respondent is licensed to practice nursing in the State of Kansas. On or about October 17, 2012, the respondent had a positive drug screen for amphetamine and methamphetamine while employed at Menorah Medical Center. The respondent was referred to the Kansas Nurse Assistance Program (KNAP) by her employer. The respondent's employment with Menorah Medical Center was terminated October 24, 2012 for violating the employer's substance abuse policy.
2. On January 10, 2013, the respondent entered into a three year contract with KNAP.
3. On or about October 28, 2013, the respondent relapsed on methamphetamine. She was determined not safe to work. Further, between March 2013 and November 2013, the respondent had violated KNAP by having low creatinine levels in her Urinary Drug Screens (UDS).
4. On December 12, 2013, the respondent's KNAP case was closed as non-compliant by KNAP.
5. On or about June 19, 2014, the respondent entered into a diversion agreement in the Municipal Court of the City of Olathe regarding a criminal destruction of property charge.
6. On or about August 18, 2014, the respondent entered an Initial Agreed Order with the Board. In that order, the respondent agreed to reenter KNAP and remain compliant. The respondent reentered KNAP January 2015. Once again, she had trouble with her creatinine levels causing unreliable UDS results. Once again, the respondent became non-compliant with KNAP and her KNAP case was closed as unsuccessful on September 2, 2015.

7. On August 26, 2015, the respondent was arrested at the Olathe, Kansas Wal-Mart for "huffing" Ultra Duster. The respondent was witnessed "huffing" in the Wal-Mart restroom. The police were called and the respondent was arrested. Upon arrest, the respondent had what she described as "frost burn". The respondent had a foamy white residue around her mouth and nose and the arresting officer indicated she also had blisters.
8. On January 13, 2015, the respondent's license to practice nursing in the State of Missouri was revoked by the Board of Nursing in the State of Missouri. The revocation was based on the respondent's behavior forming the basis of the Initial Agreed Order of August 18, 2014 and her subsequent behavior violating that order.
9. In October 2015, the respondent entered the inpatient recovery program, Mirror. After her completion of this program, she entered into an intensive out-patient treatment program. The respondent relapsed soon after beginning her intensive out-patient treatment program. The respondent was taken to Joplin, Missouri and evaluated. She was diagnosed with depression and anxiety. She was prescribed medications for these conditions. After her release from care in Joplin, Missouri, the respondent completed a second inpatient treatment at the Addiction Treatment Center in Girard, Kansas. Once the inpatient treatment was complete, the respondent began an intensive out-patient treatment program with Addiction Treatment Programs of Southeast Kansas. This intensive out-patient treatment is complete and the respondent is now participating in aftercare.
10. When the respondent first tested positive to amphetamine and methamphetamine and while employed a Menorah Health Center, she was living in Olathe, Kansas. She has since moved from the area. The respondent now resides in Fort Scott, Kansas. She is involved in aftercare from her intensive out-patient program and attends many local support meetings throughout the week.
11. The respondent holds two jobs; wherein, she works at a Certified Nurse Aide (CNA) level. She believes that she is currently able to return to nursing.

#### Applicable Law

1. The Kansas State Board of Nursing has the authority to deny, revoke, limit, or suspend any license, certificate of qualification, or authorization to practice nursing in the State of Kansas or any application for a license to practice nursing upon a finding of a violation of the Kansas Nurse Practice Act. K.S.A. 65-1120(a).
2. It is a violation of the Kansas Nurse Practice Act to willfully and repeatedly violate the provisions of the Kansas Nurse Practice Act by failing to complete the requirements of the impaired provider program. K.S.A. 65-1120(a)(7) and K.A.R. 60-3-110(s).

3. It is a violation of the Kansas Nurse Practice Act 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).
4. It is a violation of the Kansas Nurse Practice Act to have a license to practice nursing as a registered nurse or practical nurse denied, revoked, limited, or suspended by a licensing authority of another state. K.S.A. 65-1120(a)(8).

#### Discussion

1. On or about September 2, 2015, the respondent's KNAP case was closed as unsuccessful. This is a violation of the Initial Agreed Order between the respondent and the Board and a violation of K.S.A. 65-1120(a)(7), wherein, the respondent willfully and repeatedly violated the Kansas Nurse Practice Act by failing to complete the requirements of the impaired provider program as outlined at K.A.R. 60-3-110(s).
2. As of August 28, 2015, it was determined that the respondent was not safe to work as a nurse due to "huffing" and/or use of mood altering drugs. This is a violation of the respondent's Initial Agreed Order with the Board, a violation of the respondent's agreement with KNAP, and a violation of K.S.A. 65-1120(a)(4) by being unable to practice nursing with skill and safety due to current abuse of drugs or alcohol.
3. As of July 13, 2015, the respondent had her license to practice nursing in the State of Missouri revoked. This is a violation of the Kansas Nurse Practice Act at K.S.A. 65-1120(a)(8) of having a license to practice nursing revoked by the licensing authority of another state.
4. Pursuant to the record, the respondent is not currently using drugs or alcohol, and she expresses a genuine consciousness of the seriousness of her wrongdoing. The respondent's commitment to her rehabilitation appears to be genuine. However, she has had multiple relapses and this recovery does appear fragile. It appears fragile because it is so newly found. It appears fragile because of the severity of the situation from which the respondent has come. It seems fragile because of her history of relapse.
5. The respondent has violated the Kansas Nurse Practice Act by being unsafe to practice due to use of drugs and by willfully and repeatedly failing to comply with the requirements of KNAP. She has violated the Kansas Nurse Practice Act by causing her license in Missouri to be revoked. However, the respondent is successfully in recovery. In recovery the respondent should be able to practice nursing. However, because of the delicate nature of the respondent's recovery, the addition of the stress of nursing does not seem prudent. It is the purpose of the Kansas State Board of Nursing to protect the citizens of Kansas. If the respondent's license to practice nursing is suspended without stay, this would give the respondent time and opportunity to safely solidify her rehabilitation and protect the citizens of Kansas while she does so.

### Conclusion

1. The respondent's license to practice nursing is hereby suspended, without stay, for a period of one year, at which time she can petition the Board to lift the suspension if she is in compliance with the criteria outlined in *Vakas v. Board of Healing Arts*, 248 Kan. 859.
2. Cost of this action shall be assessed against the respondent in the amount of \$100.00 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, 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.



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Sandra L. Sharon  
Administrative Law Judge/Presiding Officer  
Office of Administrative Hearings  
1020 S. Kansas Ave.  
Topeka, KS 66612  
Telephone: 785-296-2433

CERTIFICATE OF SERVICE

On June 27, 2016, 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

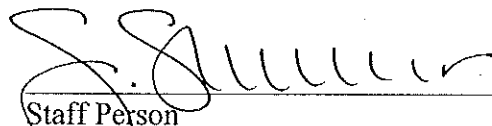
and a copy of this document through State Building Mail to:

Bryce Benedict  
Assistant Attorney General  
Disciplinary Counsel for the Kansas State Board of Nursing  
900 SW Jackson, LSOB, Ste. 1051  
Topeka, KS 66612  
Telephone: 785-296-2512

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

Melissa Ann Wright  
1123 S Margrave Street  
Ft. Scott, KS 66701

R.E. "Tuck" Duncan  
212 SW 8<sup>th</sup> Avenue, Ste. 202  
Topeka, Kansas 66603



Staff Person

Office of Administrative Hearings