

BEFORE THE KANSAS STATE BOARD OF NURSING
Landon State Office Building, 900 S.W. Jackson #1051
Topeka, Kansas 66612-1230

FILED
DEC 1 2011
KSBN

IN THE MATTER OF
MELANIE L. FRENCH
License No. 13-105937-072
Case No. 08-745-3, 09-1073-5, and 10-362-8

SUMMARY ORDER TO REVOKE

Now this 1st day of December, 2011, the above matter comes before the Kansas State Board of Nursing (Board) pursuant to authority granted to the Board by K.S.A. 65-1120. The Board hereby proposes to find facts and take disciplinary action against the licensed practical nurse license of Melanie L. French, (Licensee) by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. a. Licensee is licensed to practice nursing in the state of Kansas as a registered nurse through 7/31/2012. The Board has jurisdiction over the Licensee and the subject matter of this action.
- b. Licensee's address of record is 6786-7 Burnside Loop, Fort Riley, KS 66442.
- c. Licensee's nursing license was suspended for six months on 7/28/2011 due to a relapse on 5/10/2011 after she entered into a Consent Agreement and Final Order in Board Case Numbers 08-745-3 and 09-1073-5 with the Board on 7/9/2010. The licensee stipulated to the following facts in the Agreement:
 - (a) A petition was filed June 2, 2010 to take disciplinary action against the licensee's license. Respondent pled guilty on May 15, 2007 and was convicted of falsely reporting a crime, a class A misdemeanor, in case number 07 CRM 683 in the Municipal Court of Salina, Kansas.
 - (b) Respondent was employed by Wesley Medical Center from September 22, 2008, to May 7, 2009. Respondent was counseled and received warnings on March 27 and April 29 for excessive absences during her employment with Wesley Medical Center.
 - (c) On or about May 5, 2009, a Pyxis discrepancy was tied to Respondent's access, and upon investigation, supervisors discovered Respondent had removed Percocet multiple times without a written order by a physician and without documenting that the Percocet was administered to the patient. Respondent's employment was terminated on or about May 7, 2009, and the circumstances were reported to KSBN.
- d. In Nursing Board Case No. 10-362-8 the Board received a report regarding violations of the Kansas Nurse Practice Act by the Licensee at Holiday Resort in Salina, Kansas for the period of August 2009 through February 2010.

e. Licensee was subsequently indicted in the U.S. Federal District Court in July, 2011 for the theft of Percocet at Wesley Medical Center in Wichita, Kansas in May of 2009 and for taking syringes from the medical room at Holiday Resort in Salina, Kansas, and replacing morphine with sodium chloride. At Holiday Resort Licensee admitted she was addicted to pain medications was accused of taking the syringes home and injecting the morphine into herself. Licensee entered into a plea agreement and pled in the federal criminal case on November 28, 2011 in the United States District Court for the District of Kansas Case No. 11-40060-01-RDR and has agreed to voluntarily permanently surrender her nursing license to the Board and not seek reinstatement of her nursing license in the future.

f. Licensee failed to surrender her license to the Board in a timely manner, when the Board gave her the opportunity to complete a voluntary revocation on or about November 9, 2011.

2. Pursuant to K.S.A. 65-1120(a), the Kansas State Board of Nursing may deny, revoke, limit or suspend any license, certificate of qualification or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or as a registered nurse anesthetist that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a certificate of qualification or authorization, if the applicant, licensee or holder of a certificate of qualification or authorization is found to have violated the Nurse Practice Act. The above fact findings establish evidence that the applicant violated the following provisions of the Nurse Practice Act:

(a) K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110®, failing to comply with any disciplinary order of the board.

(b) K.S.A. 65-1120(a)(6), unprofessional conduct, by failing to complete the requirements of the impaired provider program of the board; K.A.R. 30-3-110(s).


(c) K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n);

3. Licensee's conduct described herein violates the Kansas Nurse Practice Act.
4. Licensee's conduct described herein violates the Consent Agreement and Final Order in case numbers 08-745-3, and 09-1073-5, dated 7/9/2010.
5. K.S.A. 77-511(a)(2)(A) of the Kansas Administrative Procedure Act authorizes the use of summary proceedings by a state agency if the use of summary proceedings does not violate any provision of law, the protection of the public interest does not require the state agency to give notice and an opportunity to participate to persons other than the parties, and the state agency believes in good faith, after investigation of the facts, that the allegations will be supported to the applicable standard of proof.
6. The role of the Kansas State Board of Nursing is to protect citizens of Kansas.

IT IS THEREFORE ORDERED BY THE KANSAS STATE BOARD OF NURSING THAT

1. Licensee's license is revoked due to a finding of non-compliance with the Consent Agreement and Final Order in case numbers 08-745-3, and 09-1073-5, and based her conviction in the United States District Court for the District of Kansas, Case No. 11-40060-01-RDR on November 28, 2011. The facts she pled to in the federal case are the same issues investigated and substantiated by the Board in Case Nos. 10-362-8 and 09-1073-5.
2. Licensee shall not practice nursing in the state of Kansas ever again under the terms of the plea agreement and conviction in the United States District Court of Kansas, Case No. 11-40060-01-RDR; Item 6. "In return for the government's agreement to enter into a Rule 11(c)(1)(C) plea agreement, the defendant agrees to surrender permanently any nursing or other health care provider license she currently holds and further agrees to not apply for or reapply for any license that would allow her to work in the health care industry at any time in the future."

Pursuant to K.S.A. 77-537, this decision, which is called a Summary Order, is subject to your request for a hearing. If you desire a hearing, you must submit or direct a written request for hearing to: Kansas State Board of Nursing, Legal Division, 900 SW Jackson, Suite 1051, Topeka, Kansas 66612-1230, (785) 296-4325. THIS REQUEST MUST BE SUBMITTED WITHIN FIFTEEN (15) DAYS FROM THE DATE OF THIS ORDER. If a hearing is not requested in the time and manner stated, this Summary Order becomes effective as a final order, without further notice, upon the expiration of the time for requesting a hearing. If a hearing is requested, the prior issuance of a summary order shall not affect the burden of proof. Pursuant to K.S.A. 77-531, if the Summary Order is served by mail, three days are added to the time limits set out above.


Judith Hiner, RN, BSN
Investigative Committee, Chair
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

I certify that on the 14 day of December 2011, the foregoing copy of the Summary Order was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Melanie L. French
6786-7 Burnside Loop
Fort Riley, KS 66442



Alma A. Heckler, #11555
Assistant Attorney General