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BEFORE THE KANSAS STATE BOARD OF NURSING

Landon State Office Building, 900 S.W. Jackson #1051
Topeka, Kansas 66612-1230

**IN THE MATTER OF
JOSALYN P. MARKSBERRY
License No. 13-106937-012**

Case No. 13-1189-5

SUMMARY ORDER TO REVOKE

Now this 4th day of September, 2014, 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 registered nurse license of Josalyn P. Marksberry, (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 1/31/2016. The Board has jurisdiction over the Licensee and the subject matter of this action.
 - b. Licensee's address of record is 608 S. Fourth St., Mulvane, Kansas 67110-8038.
 - c. Licensee was employed by Via Christi Hospital, Wichita, Kansas from 5/3/2005 to 1/24/2014.
 - d. Licensee's employment was terminated by Via Christi for the following reasons: "For 11 of the most recent 13 weeks, your name appeared at the top of the weekly 'dispensing practices' omniceil report for scheduled 3 medications. This also showed a significantly higher number of medications you had administered compared to other RNs on the unit ... either you are diverting medications or your nursing practices in regard to medication administration are reckless, extremely careless and disregard policies...."
 - e. An internal investigation was conducted by Via Christi and it showed a pattern of multiple dropped medications especially at the end of the licensee's shift, medications were removed from omniceil and given much later, inconsistent pain scores documentation, suspicious waste, and multiple medications given to patients not assigned to the licensee. The licensee failed to follow Via Christi policies and procedures.
 - f. Licensee failed to respond to the Board investigator. She sent the licensee a letter on October 2, 2013 asking the licensee to contact her. The licensee did not respond to the letter.
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), to be guilty of unprofessional conduct as defined by the rules and regulations of the board as defined by K.A.R. 60-3-110(c) failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient;

(b) K.S.A. 65-1120(a)(6), to be guilty of unprofessional conduct as defined by the rules and regulations of the board as defined by K.A.R. 60-3-110(d) inaccurately recording, falsifying, or altering any record of a patient or agency or of the board;

(c) K.S.A. 65-1120(a)(6) to be guilty of unprofessional conduct as defined by K.A.R. 60-3-110(t) failing to furnish the board, its investigators, or its representatives with any information legally requested by the Board.

(d) K.S.A. 65-1120(a)(6), to be guilty of unprofessional conduct as defined by the rules and regulations of the board as defined by K.A.R. 60-3-110(n) diverting drugs, supplies, or property of any patient or agency;


3. Licensee's conduct described herein violates the Kansas Nurse Practice Act.
4. 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.
5. 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.
2. Licensee shall not practice nursing in the state of Kansas.
3. Licensee shall pay \$70.00 costs of this action to the Board within thirty (30) days of the effective day of this Order.

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

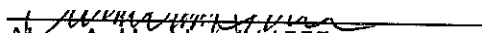
requested in the time and manner stated, this Summary Order becomes effective as a final order, without further notice, upon the expiration of the time for requesting a hearing. If a hearing is requested, the prior issuance of a summary order shall not affect the burden of proof. Pursuant to K.S.A. 77-531, 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 4th day of September 2014, 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:

Josalyn P. Marksberry
608 S. Fourth St.
Mulvane, Kansas 67110-8038


Alma A. Heckler, #11555
Assistant Attorney General