

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

NOV 21 2013

IN THE MATTER OF ISMAEL DIAW

License No. 13-110454-091

KSBN

Case No. 13-1769-5

SUMMARY ORDER

NOW ON THIS 21st day of November, 2013, 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 proposed to find facts and take disciplinary action against the renewal application of Applicant by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. Applicant submitted a renewal application to practice nursing in the state of Kansas. The Board has jurisdiction over the Applicant and the subject matter of this action.
2. Applicant's address of record is 2305 White Oak Drive, Wichita, Kansas 67207.
3. On or about 17th day of September, 2013, the Board received Applicant's renewal application to practice nursing in the State of Kansas.
4. Review of the Application and other information gathered by the Board revealed the following information upon which this action is based.
5. Applicant answered "no" to the question about whether he/she had obtained the 30 hours of Continuing Education (CNE) required for license renewal pursuant to K.S.A. 65-1117(a) and KAR 60-9-106(a).
6. Applicant is not a first time renewal expiring within 30 months following licensure examination or a renewal expiring within 9 months of reinstatement or endorsement, either of which would be an exception to the requirement for CNE.

7. Despite the written instructions on the 1st day of October, 2013 telling the applicant that the process could not be completed if the 30 hours of CNE was not obtained. On the 30th day of October, 2013, a CNE Audit letter was sent regarding the required 30 CNE certificates required for renewal.

8. Applicant upon request has not submitted proof of the required 30 hours of CNE allegedly obtained between the dates of October 1st, 2011 and September 17th, 2013, the applicant's prior licensing period, in order to qualify for renewal of the nursing license. Certificates submitted to KSBN were not valid for this renewal period.

CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1117(a) and KAR 60-9-106(a) each applicant for renewal of a Kansas nursing license shall submit proof of completion of 30 hours of CNE obtained within the prior licensing period.
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 authorization, if the applicant, licensee or holder of a certificate of qualifications or authorization is found to have violated the Nurse Practice Act. The above fact findings established evidence that the applicant violated the following provisions of the Nurse Practice Act:
 - (a) K.S.A. 65-1120(a)(1), to be guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing.
 - (b) K.S.A. 65-1120(a)(6), to be guilty of unprofessional conduct as defined by the rules and regulations of the Board, KAR 60-3-110(b) assuming duties and responsibilities within the practice of nursing without making or obtaining adequate preparation or maintaining competency.

(c) K.S.A. 65-1120(a)(7) willfully violating any of the provisions of the Kansas Nurse Practice Act and K.S.A. 65-1117(A) and KAR 60-9-106 every licensee with an active nursing license shall submit with the renewal application evidence of satisfactory completion of a program of CNE as required by the Board which is 30 hours or CNE obtained with the prior licensing period.

- 3 Applicant's conduct described herein violated the Kansas Nurse Practice Act and renders the applicant non-qualified for obtaining a renewal of his/her license.
- 4 K.S.A. 77-511(a)(2)(A) of the Kansas Administrative Procedure Act authorized by use of the summary proceedings does not violated any provision of law and the protection of the public interest does not require the state agency to give notice and opportunity to participate to persons other than the parties.
- 5 The role of the Kansas State Board of Nursing is to protect citizens of Kansas.

POLICY STATEMENT


1. Continuing Education is a mandate by the state legislature and is intended to build upon the educations and experiential bases of the nurse for the enhancement of practice, education, administration, and research or theory development to the end of improving the health of the public.
2. Truthfulness is a hallmark of the nursing profession and is required to ensure accurate communication of all nursing actions

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

1. **Applicant's license to practice nursing in the state of Kansas is revoked.**
2. **Upon reinstatement in addition to the submission of the proper forms, fees and documentation of 30 hours of CNE, the applicant will be required to submit proof of completion of a course of CNE that teaches about the Kansas Nurse Practice Act.**

Pursuant to K.S.A. 77-537, the decision, which is called a Summary Order, is subject to your request for 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.


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

On the 21st day of November, 2013, I deposited a copy of this SUMMARY ORDER with the United States Postal Service, postage pre-paid, addressed to:

Ismael Diaw
2305 White Oak Drive
Wichita, Kansas 67207


Michael R. Fitzgibbons #12287
Assistant Attorney General