

FILED

OCT 20 2014

KSBN

BEFORE THE KANSAS STATE BOARD OF NURSING

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

**IN THE MATTER OF
TODD W. BARRAGER
License No. 13-119549-061**

Case No. 11-366-6

PETITION

COMES NOW the petitioner, the Kansas State Board of Nursing, by and through Assistant Attorney General assigned to the Board, Alma A. Heckler, and for its cause of action states that:

1. Respondent, Todd W. Barrager, is licensed to practice nursing as a registered nurse in Kansas through 6/30/2015. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 415 N. 18th, Independence, Kansas 67301.
3. After an investigation, the Board's investigative committee found reasonable grounds to believe that the respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1120, and referred this matter for further proceedings.
4. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 et seq. to examine, license and renew license for duly qualified applicants and may limit, deny, suspend or revoke a license or authorization to practice nursing, may issue a public or private censure and levy administrative fines consistent with K.S.A. 74-1110, if a violation of K.S.A. 65-1120(a) is established.

FACTS COMMON TO ALL COUNTS

5. The facts below are common to all counts:
 - (a) Respondent was previously licensed as an LPN at the time he entered into a Diversion Agreement with the Board in June of 2012. His RN application was pending. The

Board agreed to grant him an RN license so long as he complied with the terms of the Diversion Agreement. His RN license was granted on 6/15/2012.

(b) Respondent admitted to the following facts listed in the Diversion Agreement:

In the above captioned case, licensee applied for a licensed practical nurse license but failed to initially report all of his criminal convictions. He was convicted of felony theft on or about 12/14/1981 and felony sale/delivery/distribution of cocaine in 2006. He was convicted of misdemeanor DUI in 1981 and battery on or about 12/17/2001. Licensee's driver's license was suspended or restricted four times, with the last restriction occurring on or about 8/10/2011. Licensee was referred to the Kansas Nurse Assistance Program (KNAP) on 6/29/2011. Licensee enrolled in KNAP on 9/15/2011. He was referred to KNAP by the board. His initial LPN license was approved on 9/28/2011. He continues to participate in KNAP.

Licensee failed to provide proof of 12 step meeting attendance to KNAP in December of 2011. Licensee's 1/9/2012 urinary drug screen had a low urine creatinine level.

Licensee applied for an initial RN license on or about 4/25/2012. It has not yet been granted.

(c) Respondent was enrolled at the time he entered the Diversion Agreement in June 2012. He agreed to successfully complete KNAP.

(d) Respondent has had some health problems and his participation in KNAP was suspended at his request from March 12, 2014 to July 17, 2014. Respondent relapsed in February 2014, before his participation in KNAP was suspended. He relapsed again in September 2014 after his KNAP participation was once again required after he left physical rehabilitation at the Veteran's Hospital on or about July 17, 2014. Respondent's KNAP case was closed unsuccessfully on or about September 29, 2014 because he failed to check in with Affinity for three days in a row and failed to respond to KNAP's efforts to contact him regarding

the results of a retest of his September 2014 positive UDS and KNAP's request for date for his re-evaluation appointment. Respondent failed to respond.

(e) Respondent is not able to practice as a nurse but when offered the opportunity to close his KNAP case and surrender his license he has declined.

VIOLATIONS

6. Respondent has violated the Kansas Nurse Practice Act as follows:

Count 1: K.S.A. 65 1120(a)(4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol;

Count 2: 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. 60-3-110(s);

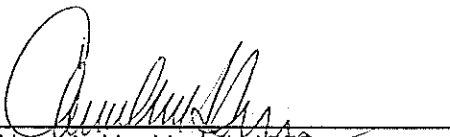
Count 3: K.S.A. 65-1120(a)(2), to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust...;

WHEREFORE, petitioner requests a finding that the respondent has violated the Nurse Practice Act, that respondent's license to practice nursing in Kansas be revoked, and that costs of this action be assessed to the respondent in the at least the amount of \$70.00.

Respectfully submitted,

Derek Schmidt
Kansas Attorney General

By:


Alma A. Heckler, #11555
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

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**IN THE MATTER OF
TODD W. BARRAGER
License No. 13-119549-061**

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PROPOSED DEFAULT ORDER TO REVOKE LICENSE

NOW ON THIS 18th day of November, 2014, petitioner, the Kansas State Board of Nursing, appears by disciplinary counsel, Alma A. Heckler, for a Hearing on the Petition. Respondent does not appear.

Wherefore, the Presiding Officer finds as follows:

1. Respondent is licensed to practice nursing in Kansas until 6/30/2015. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent was sent a copy of the petition and notice of this hearing to respondent's last known address and service is proper. Respondent does not appear.
3. Petitioner moves for issuance of a proposed default order revoking respondent's license. The petitioner's request is granted by default pursuant to K.S.A. 77-520.
4. The petition is hereby granted and incorporated into this order as if set forth herein. Respondent violated the Nurse Practice Act as alleged in the petition.
5. Per Petitioner's request, respondent's license is revoked. Respondent may not practice nursing in Kansas.
6. Costs of the action of \$70 are assessed to respondent to be paid to the board by cash or money order within 30 days of the effective date of this order.
7. This Proposed Default Order shall become effective seven days after service or ten days after mailing of this order unless the Respondent files a written motion with the Board stating why the Proposed Default Order should be vacated and the order is then vacated.

8. Disciplinary counsel shall mail a copy of this proposed default order to respondent's last known address.

IT IS SO ORDERED.



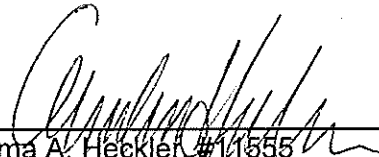
Sandra Sharon, Presiding Officer
Office of Administrative Hearings
1020 S Kansas Ave.
Topeka, KS 66612-1327

NOTICE

Pursuant to K.S.A. 77-527, either party may request a review of this order by filing a petition for review with the Kansas State Board of Nursing. The petition for review shall state its basis. A petition for review must be filed within 7 days from the date this order becomes effective. 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: State Board of Nursing - Legal Division, Landon State Office Building, 900 SW Jackson, Ste 1051, Topeka, KS 66612-1230.

Pursuant to K.S.A. 77-530, if neither party requests a review by the Kansas State Board of Nursing, then this initial order becomes final and binding on both parties on the 30th day following its service.

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.

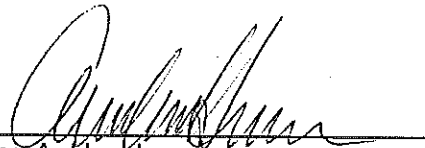


Alma A. Heckler, #11555
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson, Suite #1051
Topeka, KS 66612-1230
785-296-4325

CERTIFICATE OF SERVICE

I certify that on the 25th day of November 2014, the foregoing copy of the Proposed Default Order Revoking License was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Todd W. Barrager
415 N. 18th
Independence, Kansas 67301


Alma A. Heckler
Assistant Attorney General