

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

FILED
JUL 1 2016

KSBN

**IN THE MATTER OF
ASHLEE JARVIS**

OAH Case No. 16BN0105

**License No. 13-130863-031
Case No. 14-1887-7**

NOTICE OF PROPOSED DEFAULT ORDER
AND
PROPOSED DEFAULT ORDER

This matter comes on for consideration by the presiding Administrative Law Judge (ALJ) to enter a Proposed Default Order against respondent, Ashlee Jarvis.

Wherefore, the presiding ALJ finds as follows:

1. The respondent is licensed to practice nursing in Kansas.
2. The petitioner, the Kansas State Board of Nursing Board (Board), has jurisdiction over the respondent and the subject matter of this action.
3. On January 07, 2016, a Petition was filed by the Board seeking suspension of the respondent's nursing license. It was sent to her last known address and was not returned as undeliverable.
4. On January 11, 2016, a Notice of Prehearing Conference was sent to the respondent. The conference was scheduled for June 29, 2016 at 9:00 a.m. The notice was not returned as undeliverable.
5. On June 29, 2016, a prehearing conference was convened. The Board appeared by disciplinary counsel, Bryce D. Benedict. The respondent did not appear in person or by phone.

6. Pursuant to Kansas Statutes Annotated (K.S.A.) 77-520(a), “[i]f a party fails to attend or participate in a prehearing conference, hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order.”
7. The respondent is in default pursuant to K.S.A. 77-520.
8. This Proposed Default Order shall become effective and deemed an initial order, seven days after service or ten days after mailing of this order unless the respondent files a written motion stating why the Proposed Default Order should be vacated and the order is then vacated. A motion to vacate shall be mailed or personally delivered to: Kansas State Board of Nursing, Legal Division, Landon State Office Building, 900 SW Jackson, Ste. 1051, Topeka KS 66612-1230, with a copy to be mailed or personally delivered to: Michele Tunnell, Administrative Law Judge, Office of Administrative Hearings, 1020 S. Kansas Ave., Topeka, KS 66612-1327.
9. If this Proposed Default Order becomes effective, the allegations contained in the Petition will be deemed uncontroverted and the Petition will be granted and incorporated into this order as if fully set forth herein. The respondent’s license to practice nursing will be revoked. The respondent will immediately forward his or her original Kansas nursing license to the Board.

10. In addition, costs of the action in the amount of \$100.00 will be assessed to the respondent to be paid to the Board by cashier's check or money order within 30 days of the effective date of this order.

The presiding ALJ, being well and duly advised in the premises, now enters this Proposed Default Order against the respondent. It shall take effect as specified in the above findings.

IT IS SO ORDERED.

Appeal Rights and Other Administrative Relief

Pursuant to K.S.A. 77-520, if the proposed default order becomes effective, it is deemed an initial order, as set forth above. Pursuant to K.S.A. 77-527, either party may request review of the initial order by filing a petition for review with the Kansas State Board of Nursing within 15 days from date the order is deemed an initial order. Failure to timely request review may preclude further judicial review. Petitions for review shall be mailed or personally delivered to: Kansas State Board of Nursing, Legal Division, Landon State Office Building, 900 SW Jackson, Ste. 1051, Topeka, KS 66612-1230.

If neither party requests review, the initial order becomes a final order and is binding on the 30th day following its mailing.

A party may seek judicial review of a final order by filing a petition for judicial review pursuant to K.S.A. 77-601, *et seq.* Reconsideration of a final order is not a prerequisite to judicial review. A copy of any petition for judicial review shall be served on Mary Blubaugh, Executive Administrator, Kansas State Board of Nursing, 900 SW Jackson, Suite 1051, Topeka, KS 66612-1230.


Michele Tunnell
Administrative Law Judge
Office of Administrative Hearings
1020 S. Kansas Ave.
Topeka, KS 66612-1327

CERTIFICATE OF SERVICE

On June 30, 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

a copy of this document through State Building Mail to:

Bryce D. 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:

Ashlee Jarvis
16398 South Church Street
Olathe, KS 66062


Staff Person
Office of Administrative Hearings

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License No. 13-130863-031

Case No. 14-1887-7

PETITION

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

1. Respondent, Ashlee Jarvis, is licensed to practice nursing in Kansas through 3-31-2017. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 16398 South Church Street, Olathe KS 66062.
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 et seq., 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.

STATEMENT OF FACTS

5. The facts below are common to all counts:
 - (a) On July 1, 2014 the Respondent was working as a nurse at Evergreen Community of Johnson County.

- (b) On July 2, 2014 the Respondent drew hydrocodone medication for a resident identified here by the initials J.S.
- (c) J.S., though a resident of Evergreen, was not there that day, as he had been admitted to a hospital the previous day.
- (d) The Respondent documented that she had administered the hydrocodone to J.S.
- (e) The Respondent could not identify to whom she gave the hydrocodone; she wrote, "The only thing that I can think of is I had a resident that was deaf, upset because he wanted a pain pill. I was in a rush..."
- (f) Photographs of the residents of Evergreen were attached to the residents' medical records, and the policy of Evergreen was to verify the identity of each resident before medication was administered.

VIOLATIONS

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

Count 1: K.S.A. 65-1120(a)(3), to have committed an act of professional incompetency, i.e. failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;

Count 2: K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110, to be guilty of unprofessional conduct as defined by rules and regulations of the board; to wit: failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient.

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

WHEREFORE, petitioner requests a finding that the respondent has violated the Nurse Practice Act, that respondent's license to practice nursing in Kansas be suspended, that a fine of \$500.00 be assessed, and that costs of this action be assessed to the respondent.

Respectfully submitted,

Derek Schmidt
Kansas Attorney General



By: _____

Bryce D. Benedict, #11663
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612