

FILED

MAY 26 2009

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

DALE A. NUSE

License No. 13-59198-012

Case No. 09-046-5, 08-053-5, 07-1014-5

SUMMARY ORDER

Now this 26 day of May, 2009, 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 reinstatement application of Dale A. Nuse (Applicant) by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. (a) Applicant was previously licensed to practice nursing in the state of Kansas. Applicant's license to practice nursing in the state of Kansas as a registered nurse lapsed/expired on or about 1/31/2008. Applicant submitted an application for reinstatement of Applicant's license to practice nursing in the state of Kansas. The Board has jurisdiction over the Applicant and the subject matter of this action.
- (b) Applicant's address of record is 219 Circle Dr, Derby, KS 67037.
- (c) On or about 2/6/2009, the Board received Applicant's application for reinstatement of Applicant's license to practice nursing in the state of Kansas.
- (d) A review of the Application and other information gathered by the Board revealed the following information upon which this action is based.
- (e) On or about 12/15/2005, Applicant's Kansas driver's license was suspended by the Kansas Department of Revenue.
- (f) On or about 2/2/2006, Respondent was convicted of Driving Under the Influence, a misdemeanor, in the District Court of Sedgwick County, Kansas, case number 05TR15707.
- (g) On or about 10/12/2006, Respondent was convicted of Driving Under the Influence 2nd, a misdemeanor, in the Municipal Court of Wichita, Kansas, case number 05DU001155.
- (h) On or about 11/2/2006, Respondent was convicted of Expired Tag, a misdemeanor, in the Municipal Court of Derby, Kansas, case number MC01193.
- (i) On or about 5/3/2007, Applicant admitted to violating his probation in Sedgwick County District Court case number 05TR15707. As a result of the violation Applicant's probation was extended 12 months and Applicant was ordered to remain in aftercare for the duration of the probationary period.

(j) On or about 5/8/2007, Applicant's Kansas driver's license was suspended by the Kansas Department of Revenue.

(k) On or about 7/1/2007, K.S.A. 65-1117(c)(1)(B) became effective. K.S.A. 65-1117(c)(1)(B) requires nurses licensed in the state of Kansas to report felony convictions and certain misdemeanor convictions to the KSBN within 30 days from the date the conviction becomes final.

(l) On or about 8/16/2007, Applicant's Kansas driver's license was suspended by the Kansas Department of Revenue.

(m) On or about 9/11/2007, was working as a nurse at the Kansas Medical Center, Andover, KS. On or about 9/11/2007, Applicant was attacked by a patient at the Medical Center. The patient advised he attacked Applicant because Applicant appeared to be using Applicant's cell phone to take pictures of the patient's penis. Applicant denied the allegation. Police officer's were called to the Medical Center. According to the Medical Center staff the police investigation revealed no pictures of the patient's penis were found on Applicant's cell phone.

(n) On or about 10/1/2007, B. Beugelsdyk, Chief Nursing Officer at Kansas Medical Center contacted Applicant to discuss the 9/11/2007 incident. B. Beugelsdyk reported that during her conversation with Applicant that Applicant told her he had inappropriate pornographic pictures on his cell phone. Applicant was terminated at that time due to Kansas Medical Center having a policy in place prohibiting pornography on the grounds of the Kansas Medical Center.

(o) On or about 12/4/2007, Applicant began employment as a nurse with Metro Treatment Center, Wichita, KS.

(p) On or about 1/28/2008, Applicant submitted an incomplete application to renew his license to practice nursing in the state of Kansas. Within the application Applicant answered "Yes" to the question "Have you ever been convicted of a misdemeanor?" Applicant answered "No" to the question "Has any license, certification or registration (nursing or other) ever been denied, revoked, suspended, limited or disciplinary action taken by a licensing authority of any state, agency of the US government, territory of the US or country?"

(q) As part of the 1/28/2008 renewal application, Applicant revealed his conviction of Driving Under the Influence in Sedgwick County, Kansas District Court case number 05TR15707 and his conviction of Driving Under the Influence 2nd in the Municipal Court of Wichita, Kansas, case number 05DU001155. Applicant did not reveal other misdemeanor convictions. Applicant did not reveal actions taken against his Kansas driver's license.

(r) On or about 1/29/2008, Applicant was notified that his 1/28/2008 renewal application was incomplete and that he was required to submit additional information to complete the application. Applicant was advised that his license to practice nursing in the state of Kansas would expire on 1/31/2008 if the additional information was not timely received.

(s) On or about 1/31/2008, Applicant's license to practice nursing in the state of Kansas expired as a result of the 1/28/2008 renewal application being incomplete.

(t) On or about 5/13/2008, Respondent was convicted of Violation of a Protective Order, a misdemeanor, in the Municipal Court of Derby, Kansas, case number 200800655. Applicant did not report this conviction to the Board within 30 days as required by K.S.A. 65-1117(c)(1)(B).

(u) On or about 8/6/2008, Respondent was convicted of No Proof of Liability Insurance, a misdemeanor, in the District Court of Sedgwick County, Kansas, case number 07CR3809.

(v) On or about 8/6/2008, Respondent was convicted of Driving Under the Influence, a felony, in the District Court of Sedgwick County, Kansas, case number 07CR3809. Applicant did not report this conviction to the Board within 30 days as required by K.S.A. 65-1117(c)(1)(B). Applicant is schedule to be released from probation in case number 07CR3809 in September of 2009.

(w) On or about 10/21/2008, Respondent was convicted of Driving While Suspended, and Driving in Violation of Restrictions, Interlock Device, both misdemeanors, in the District Court of Sedgwick County, Kansas, case number 08TR7164.

(x)

(y) On or about 11/17/2008, Applicant's Kansas Driver's license was revoked for three years due to Applicant being declared a Habitual Violator.

(z) On or about 1/29/2009, Applicant's employment as a nurse with Metro Treatment Center, Wichita, KS was suspended due to Applicant not having a valid Kansas nursing license. Applicant worked shifts at Metro Treatment Center for eleven months with a lapsed/expired nursing license.

CONCLUSIONS OF LAW

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)(7), to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act, by K.S.A. 65-1117(c)(1)(B), K.A.R. 60-3-113, failing to notify the board in writing of a conviction of any felony or misdemeanor, that is specified in rules and regulations adopted by the board, within 30 days from the date the conviction becomes final.

(b) K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol.

(c) K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board.

(d) K.S.A. 65-1120(a)(6), unprofessional conduct 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.

(e) 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 without establishing sufficient rehabilitation to warrant the public trust.

(f) K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(v), practicing without a license or while the license has lapsed.

3. Applicant'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 and 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.

5. The role of the Kansas State Board of Nursing is to protect citizens of Kansas.

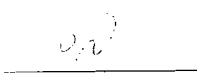
IT IS THEREFORE ORDERED BY THE KANSAS STATE BOARD OF NURSING THAT

1. Applicant's reinstatement application to practice nursing in the state of Kansas is denied.

2. Applicant is assessed and ordered to pay within 30 days of the effective date of this summary order, an administrative fine in the amount of \$550.00, which represents eleven months of unlicensed practice.

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.

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.


Janet Jacobs, LPN
Investigative Committee, Chair
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

I certify that on the 26th day of May, 2009, 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:

Dale A. Nuse
219 Circle Dr
Derby, KS 67037

Mark A. Knight, #12183
Assistant Attorney General