

BEFORE THE KANSAS STATE BOARD OF NURSING
Landon State Office Building
900 SW Jackson, Suite 551-S
Topeka, Kansas 66612-1230
(785) 296-8401

IN THE MATTER OF
DEBRA ARNOLD
REINSTATEMENT APPLICANT
LICENSE NO. 13-060263-092

Case No. 96-0517-6

**MEMORANDUM DECISION
AND INITIAL ORDER**

NOW ON this 12th day of September, 1997, the above-captioned matter comes on for decision upon the Reinstatement Application of Debra J. Arnold and upon the Request for Hearing by the Respondent, Debra J. Arnold, concerning the Summary Order of the Board denying the Reinstatement Application.

Debra J. Arnold will be referred to herein as "Applicant" or "Respondent" and the Kansas State Board of Nursing will be referred to as "Petitioner".

The Petitioner, Kansas State Board of Nursing appears by and through its disciplinary counsel, Assistant Attorney General Mark S. Braun. The Respondent and Applicant, Debra J. Arnold, appears in person pro se.

This matter was heard, pursuant to proper notice, on September 10, 1997.

The Board has proper jurisdiction of the parties and subject matter of the proceeding.

The record consists of the testimony presented at the hearing and of Petitioner's Exhibits No. 1 through 7, and Respondent's Exhibits No. 1 through 4. All exhibits were admitted without objection by either party.

Upon considering the evidence, the statements and arguments of the parties, and being otherwise well and duly advised in the premises, the Hearing Officer finds and orders as follows:

1. Respondent filed a Reinstatement Application with the Board on or about February 3, 1997. Respondent was previously licensed as a Registered Nurse and did not renew the license, which expired in September, 1996, due to her incarceration at that time.

2. The present reinstatement application was denied by a Summary Order of the Board dated August 15, 1997. Respondent timely requested a hearing upon the Summary Order.

3. The Summary Order made findings of fact, numbered 1 through 9, concerning the Respondent's various criminal convictions in Kansas and Missouri, and concerning admissions to the Board's investigator, Delores Price, about her 20 year history of "problems" with alcohol and amphetamines. The Respondent, at the hearing, did not dispute these findings except to indicate that her problems with alcohol and amphetamines have been ongoing for 13 years, rather than 20 years. Accordingly, all of such findings of fact, with the exception noted above are adopted herein by reference. Further, the Respondent admitted that she knowingly and consciously falsified her reinstatement application by not disclosing the criminal convictions which had pre-dated her reinstatement application.

4. The criteria of *Vakas v. Kansas Bd. Of Healing Arts*, 248 Kan. 589, 808 P.2d 1355 (1991) must be considered in determining whether Respondent's license to practice should be reinstated. Those factors are: (1) the present moral fitness of the Applicant; (2) the demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought the profession; (3) the extent of the Applicant's rehabilitation; (4) the nature and seriousness of the original misconduct; (5) the conduct subsequent to discipline; (6) the time elapsed since the original discipline; (7) the Applicant's character, maturity, and experience at the time of the original revocation; and (8) the Applicant's present competence in medical (nursing) skills.

5. The applicant's evidence is to the effect that she has had an ongoing substance abuse problem for a long duration. When she was using drugs, she would write worthless checks to support herself and her drug habit. She had three convictions for issuing worthless checks prior to her reinstatement application and has three more convictions since. Five of the convictions are felonies. A total of \$7,123.98, apparently, was ordered as restitution in these cases. She has served approximately six months incarceration, some in Kansas and some in Missouri, on these cases, but could have received as much as five to ten years. She is currently on probation.

Applicant testified that she is now in recovery and should be able to practice nursing.

However, she also testified that she illegally used amphetamines as recently as 30 days ago. She is now in a treatment program and will live in a halfway house. She entered that program August 16, 1997, less than 30 days prior to the hearing. The record shows that she has had several prior substance abuse treatments that were successfully completed, but then each was followed by a relapse. There is no proof of attendance at AA or NA meetings since June 3, 1997. The hearing officer finds that there is not sufficient proof that the Applicant has successfully addressed her substance abuse problem. She is not rehabilitated sufficiently to practice with skill and safety due to current drug or alcohol use (K.S.A. 65-1120(a)(4)).

6. The applicant has not practiced nursing since 1995 except for a few days in 1996. She has had no continuing nursing education since the lapse of her license in September, 1996. The hearing officer finds that there is no proof of current competency in nursing skills.

7. The applicant has admitted falsifying her reinstatement application. This constitutes a violation of K.S.A. 65-1120(a)(1), as well as the criminal offense of perjury, K.S.A. 21-3805.

8. The purpose of the *Kansas Nurse Practice Act*, K.S.A. 65-1113 *et. seq.* (KNPA) is to protect the public from licensees who may be impaired by substance abuse or addiction or for other reasons which would jeopardize the public's safety.

9. The evidence in this case reveals multiple and varied violations of the KNPA that raise serious questions regarding the Respondent's ability to safely practice nursing because of her substance abuse and chemical dependency disease and because of the demonstrated untruthfulness of the information she has presented to the Board.

10. The Hearing Officer has severe reservations concerning Respondent's present moral fitness due to the admitted falsification of her reinstatement application. That, in and of itself would be sufficient grounds to deny the application. As stated in the Summary Order: ". . . truthfulness is a hallmark of any profession and is a necessary quality to protect the public health, safety and welfare as evidenced by the need for truthfulness in charting, the primary method of communication between health care professionals."

In summary, considering all the factors of *Vakas*, the Hearing Officer finds that the

reinstatement application of Debra J. Arnold should be denied.

IT IS SO ORDERED.


TERRY E. BECK, Hearing Officer

Dated: 9-12-97

NOTICE REGARDING RELIEF FROM THIS ORDER
STATEMENT OF APPEAL RIGHTS

This is an Initial Order. The parties to whom this Initial Order is issued may file a petition for review with the Agency Head within fifteen (15) days after service of this order. The petition for review must state the specific grounds upon which relief is requested. Unless a later date is stated within the Initial Order, a stay is granted, or the order is reviewed, an Initial Order shall become a final order without further notice or proceedings thirty (30) days after the date of service as indicated by the attached certificate of service.

CERTIFICATE OF SERVICE

This is to certify that on the 15th day of September, 1997, I deposited a true and correct copy of the Initial Order in the United States Mail, first class mail, postage prepaid to the following:

Deborah J. Arnold
1528 West 14th Street
Chanute, Kansas 66720

and by hand delivery to:

Mark S. Braun
Assistant Attorney General
Kansas State Board of Nursing
900 S.W. Jackson Rm 551-S
Topeka, Kansas 66612-1230



Diane M. Glynn, J.D., R.N.
Practice Specialist