

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

OCT 27 2016

KSBN

IN THE MATTER OF JUANA SAMUEL

License No. 13-62123-022

Case No. 12-209-5

EFFECTIVE AS A
FINAL ORDER

DATE: 11-14-16

SUMMARY ORDER

Now on this 27th day of October, 2016, this matter comes before the Kansas State Board of Nursing (Board) pursuant to authority granted to the Board by K.S.A. 65-1106 and K.S.A. 65-1120, to find facts and take disciplinary action against the Licensee, Juana Samuel, by way of Summary Order pursuant to K.S.A. 77-537. Upon review, the following findings of fact, conclusions of law and order are made for and on behalf of the Board:

FINDING OF FACTS

1. Licensee's address of record is 2407 N. Fountain, Wichita, KS 67220.
2. Licensee is currently admitted to practice as an RN in the state of Kansas. The Board has jurisdiction over the Licensee and the subject matter of this action.
3. On August 23, 2010, Licensee (referred to as Defendant in criminal case) plead "no contendere" to Making a False Claim to the Medicaid Program, a severity Level 9, non-person felony in the District Court of Sedwick County, Kansas.
4. The factual bases for Licensee's plea is "During all times relevant, the Defendant was employed by ProActive Home Care, Inc., ("ProActice"), as a Registered Nurse ("RN"). As an RN defendant was responsible for providing skilled nursing services to various clients of Pro Active. During the time period set forth in the Second Amended Complaint/Information, defendant failed to provide home health care services to certain clients of ProActive, but prepared notes and documentation indicating that such services had been provided while clients were receiving medical services in other facilities, i.e., hospitals, and that services had been provided to one client for almost a week after he had deceased. Such notes and documentation were then relied

upon by ProActive to submit claims to the Kansas Medicaid Program for payment for reimbursement for services reportedly provided by the defendant. A review of the pertinent client files and the claims data submitted to the Kansas Medicaid Program revealed that the defendant did cause false and fraudulent claims to be submitted to, and paid by, the Kansas Medicaid Program for skilled nursing services which were not provided totaling \$1,824.00.

5. On May 19, 2011, the Office of Inspector General (OIG) placed an exclusion on the Licensee's employment pursuant to action under 42 U.S.C.A. § 1320a-7b.

6. Licensee's OIG exclusion has not been lifted.

APPLICABLE LAW

7. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106(c)(4) and K.S.A. 65-1120(a) to examine, license, renew or reinstate licenses and may limit, deny, suspend or revoke a license or authorization to practice nursing, and may issue a public or private censure and levy administrative fines consistent with K.S.A. 74-1110.

8. After an investigation, the Board's investigative committee found reasonable grounds to believe the Licensee violated K.S.A. 65-1120 of the Kansas Nurse Practice Act, and referrer this matter for further proceedings.

VIOLATIONS

9. K.S.A. 65-1120(a)(8), to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country.


10. 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

CONCLUSIONS OF LAW

11. The Board has jurisdiction over the Licensee and the subject matter of this action, and such proceeding is held in the public interest.
12. The Board finds that the above facts support the above violations of the Kansas Nurse Practice Act; K.S.A. 65-1120.
13. Based on the facts and circumstances set forth, the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of the law and the protection of the public interest does not require the Board give notice and opportunity to participate to persons other than Applicant.

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

1. Licensee's Kansas Nursing License is hereby suspended.
2. Licensee's suspension will not be lifted until the OIG restrictions placed upon the Licensee are lifted and the Licensee submits documentation that restrictions have been lifted to the Board.


Judith Hiner, RN, BSN
Investigative Committee, Chair
Kansas State Board of Nursing

NOTICE OF RIGHTS

Pursuant to K.S.A. 77-537, this Summary Order shall become effective as a Final Order, without further notice, if no hearing is requested within fifteen (15) days of service. 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. 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.

CERTIFICATE OF SERVICE

I certify that on the 27th day of October, 2016, the foregoing copy of the Summary Order was severed by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Juana Samuel
2407 N. Fountain
Wichita, KS 67220



Michelle David # 26982
Special Assistant Attorney General

NOTICE

PLEASE TAKE NOTICE that this is a Final Order. A party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* A petition must be filed within 30 days following service of the Final Order. A copy of any petition for judicial review must be served upon Mary Blubaugh, Executive Administrator, Kansas State Board of Nursing, 900 SW Jackson, Suite 1051, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I certify that on the 14th day of November, 2016, the foregoing final copy of the Summary Order was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Juana Samuel
2407 N. Fountain
Wichita, KS 67220



Michelle David # 26982
Special Assistant Attorney General