

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

AUG 27 2010

KSBN

IN THE MATTER OF

LINDA J. ROSS

License No. 13-063270-051

Case No. 00-701-5, 02-022-5 and 10-1014-5

SUMMARY ORDER

Now this 27th day of August, 2010, 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 Linda J. Ross (Applicant) by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. 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 on or about 5/31/2003. 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.
2. Applicant's address of record is 2230 Gentry, El Dorado, KS 67042.
3. On or about 3/18/2010, the Board received Applicant's application for reinstatement of Applicant's license to practice nursing in the state of Kansas.
4. Review of the Application and other information gathered by the Board revealed the following information upon which this action is based:

(a) In KSBN Case 00-701-5 respondent was employed by a hospital in Wichita, Kansas and diverted drugs, failed to accurately charge doses, waste and administration of controlled substances. A survey of forty-two charts for patients assigned to the respondent from 10/2/2000 to 11/3/2000 showed a pattern of practice of diversion and failure to follow appropriate policy and procedures. The respondents inaccuracies were as follows: 12 doses were administered without orders, 3 doses were administered and not checked out of Pyxis, 11 doses were check out of Pyxis but not documented in patient records, 7 doses were administered in the wrong amount, and 27 doses were listed as having been administered in smaller amounts than the respondent removed from the system and/or pharmacy. Hospital policy and procedure required that the respondent should have documented the controlled substance that was administered in a dosage less than the amount packaged, as wasted and its destruction witnessed by another nurse.

(b) In KSBN Case 02-022-5 the respondent self-referred to [REDACTED] on 8/29/01. This was after an incident occurred while she was employed in Texas. The respondent was directed to waste a dosage of Demerol but instead self-injected and fell asleep at the nurse's station. The respondent claimed at the time that it was the first time she had diverted drugs and it scared her. [REDACTED]

[REDACTED]

- [REDACTED] The respondent never returned the releases or the extended evaluation agreement prepared by [REDACTED]. Respondent informed [REDACTED] that she was not going to remain in [REDACTED] and was moving out of the state to Texas. The [REDACTED] case was closed January of 2002 for her failure to complete the verification process. The [REDACTED] was notified by [REDACTED] of the respondent's move to Texas.

(c) On or about 4/7/2003 the respondent surrendered her Kansas license and returned her Kansas RN license card to the Board.

(d) The Texas Board of Nursing entered into an Agreed Order on or about 1/2/2003 with the respondent for several incidents of Demerol diversion and falsification of records occurring in Texas from August 2001 to February 2002. While working as a nurse in Texas hospitals, respondent diverted narcotic substances, typically injectable morphine, Demerol, meperidine and phenergan from patients. Respondent tested positive for marijuana and worked impaired. Respondent agreed to be compliant with [REDACTED].

(e) Texas revoked respondent's nursing license on 5/11/2004. She worked under the influence of Demerol, and tested positive for Demerol. Respondent was in violation of the Agreed Order she signed in Texas on 1/2/2003 and she was not compliant with [REDACTED].

(f) Respondent filed for reinstatement of her Kansas license on 10/6/2004 and the reinstatement was denied by summary order dated January 19, 2005.

(g) Respondent filed for reinstatement on 3/18/2010 and has failed to show any change in circumstances, or any completed treatment.

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)(6), unprofessional conduct, by failing to complete the requirements of the impaired provider program of the board; K.A.R. 30-3-110(s).
- (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(n), diverting drugs, supplies, or property of any patient or agency.
- (d) 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.

3. Per *Vakas v. Kansas State Board of Healing Arts*, 248 Kan. 589 (1991), the factors to be considered in determining whether a license should be reinstated after a disciplinary finding has been made are the following:

- The present moral fitness of the petitioner;
- The demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought the profession;
- The extent of petitioner's rehabilitation;
- The nature and seriousness of the original misconduct;
- The conduct subsequent to discipline;
- The time elapsed since the original discipline;
- The petitioner's character, maturity, and experience at the time of the original revocation;
- The petitioner's present competence in medical skills.

4. Applicant's conduct described herein violates the Kansas Nurse Practice Act.

5. 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.


6. 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.

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

PN

CERTIFICATE OF SERVICE

I certify that on the 30th day of August, 2010, 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:

Linda J. Ross
2230 Gentry
El Dorado, KS 67042



Alma A. Heckler, #11555
Assistant Attorney General