

December 20, 2007

Jamie D. New
935 North Bennett Road
Ottawa, KS 66067

Case No. 07-572-8
License No. 13-069611-041

SUMMARY ORDER

Dear Ms. New:

The Investigative Committee of the Kansas State Board of Nursing (KSBN) has reviewed your application materials. It is the decision of the Board that your reinstatement application to practice nursing as a registered nurse in Kansas is denied. This denial is based upon the following:

FINDINGS OF FACT

1. In April of 2005 Applicant was employed at the Life Care Center of Osawatomie, Osawatomie, Kansas. During April of 2005 Staff at the Life Care Center of Osawatomie became aware of Applicant's arrest on illegal drug charges. Pursuant to facility policy Staff requested that Applicant submit to a drug screen. Applicant advised Staff that she was unable to provide a urine sample. Arrangements were made for Applicant to provide the urine sample on the following day. Applicant did not provide the urine sample and was terminated from the facility.

On or about 10/31/2005 Applicant was convicted of Possession of Drug Paraphernalia, a misdemeanor, in the District Court of Franklin County, Kansas, case number 05CR249.

On or about 1/12/2006 Applicant was convicted of Theft, a misdemeanor, in the District Court of Johnson County, Kansas, case number 05CR1268.

On or about 1/12/2006 Applicant was convicted of Possession of Drug Paraphernalia, a misdemeanor, in the District Court of Johnson County, Kansas, case number 05CR1268.

On or about 6/6/2006, the KSBN received Applicant's application for reinstatement of Applicant's license to practice nursing in Kansas.

On or about 6/14/2006 Applicant advised KSBN investigator Karen Peschka that as part of her probation in the above criminal cases, Applicant was required to submit to urine drug screens. Applicant advised Ms. Peschka that Applicant had up to that point, three urine drug screens that were positive for methamphetamine since being on probation.

On or about 12/11/2006, an Order was entered by the KSBN denying Applicant's 6/6/2006, application to reinstate her license to practice nursing in Kansas.

On or about 1/10/2007, an Order was entered by the Franklin County District Court revoking Applicant's probation and remanding applicant to custody. A basis of the revocation was a positive drug screen.

On or about 5/23/2007, the KSBN received Applicant's application for reinstatement of Applicant's license to practice nursing in Kansas.

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)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol.

(b) 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..."

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.

3. K.S.A. 77-511(a)(2)(A) of the Kansas Administrative Procedure Act authorizes the use of summary proceedings by a state agency when denying an application in whole or in part.

4. Your conduct described herein violates the Kansas Nurse Practice Act.

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

6. If you wish to dispute this matter, contact the Board immediately by following the procedure for requesting a hearing. A copy of your application will be sent to you upon request.

7. 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 above, this Summary Order becomes effective and final upon the expiration of the time for requesting a hearing.

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Tamara Hutchison, RN, BSN
Investigative Committee, Chair
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

I certify that on the 6th day of January, 2008, 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:

Jamie D. New
T.C. Bldg. #2
101 Roeland Park Drive
New Century, KS 66031


Mark A. Knight, #12183
Assistant Attorney General