

BEFORE THE KANSAS STATE BOARD OF NURSING
Landon State Office Building, 900 S.W. Jackson #1051
Topeka, Kansas 66612-1230

FILED
AUG 31 2010
KSBN

IN THE MATTER OF
MARGUERITE D. BARINGER
License No. 13-73135-081

Case No. 05-187-5

PROPOSED DEFAULT ORDER TO REVOKE LICENSE

NOW ON THIS 31st day of August, 2010, petitioner, the Kansas State Board of Nursing, appears by disciplinary counsel, Alma A. Heckler, for a Hearing on the Petition. Respondent does not appear.

Wherefore, the Presiding Officer finds as follows:

1. Respondent is licensed to practice nursing in Kansas through 8/31/2011. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent was sent a copy of the petition and notice of this hearing to respondent's last known address and service is proper. Respondent does not appear.
3. Petitioner moves for issuance of a proposed default order revoking respondent's license. The petitioner's request is granted by default pursuant to K.S.A. 77-520.
4. The petition is hereby granted and incorporated into this order as if set forth herein. Respondent violated the Nurse Practice Act as alleged in the petition.
5. Per Petitioner's request, Respondent's license to practice nursing is revoked. Respondent may not practice nursing in Kansas.
6. Costs of the action of \$70 are assessed to respondent to be paid to the board by cash or money order within 30 days of the effective date of this order.
7. Respondent shall immediately forward his or her original Kansas registered nurse license to the Kansas State Board of Nursing.

8. This Proposed Default Order shall become effective seven days after service or ten days after mailing of this order unless the Respondent files a written motion with the Board stating why the Proposed Default Order should be vacated and the order is then vacated.

9. If this Proposed Default Order becomes effective, the Respondent's request for administrative hearing is dismissed pursuant to K.S.A. 77-520(d).

10. Disciplinary counsel shall mail a copy of this proposed default order to respondent's last known address.

IT IS SO ORDERED.



Sandra L. Sharon, Presiding Officer
Office of Administrative Hearings
1020 S Kansas Ave.
Topeka, KS 66612-1327

NOTICE

Pursuant to K.S.A. 77-527, either party may request a review of this order by filing a petition for review with the Kansas State Board of Nursing. The petition for review shall state its basis. A petition for review must be filed within 7 days from the date this order becomes effective. Failure to timely request a review by the Kansas State Board of Nursing may preclude further judicial review. The petition for review shall be mailed or personally delivered to: State Board of Nursing - Legal Division, Landon State Office Building, 900 SW Jackson, Ste 1051, Topeka, KS 66612-1230.

Pursuant to K.S.A. 77-530, if neither party requests a review by the Kansas State Board of Nursing, then this initial order becomes final and binding on both parties on the 30th day following its service.

Pursuant to K.S.A. 77-531, if the initial order is served by mail, three days are added to the time limits set out above.



Alma A. Heckler, #11555
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson, Suite #1051
Topeka, KS 66612-1230
785-296-4325

CERTIFICATE OF SERVICE

I certify that on the 31st day of August, 2010, the foregoing copy of the Proposed Default Order Revoking License was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Marguerite D. Baringer
PO Box 71
Conway Springs, KS 67031



Alma A. Heckler
Assistant Attorney General

BEFORE THE KANSAS STATE BOARD OF NURSING

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

**IN THE MATTER OF
MARGUERITE D. BARINGER
License No. 13-73135-081**

FILED
JUL 12 2010
KSBN

Case No. 05-187-5

PETITION

COMES NOW the petitioner, the Kansas State Board of Nursing, by and through Assistant Attorney General assigned to the Board, Alma A. Heckler, and for its cause of action states that:

1. Respondent, Marguerite D. Baringer, is licensed to practice nursing in Kansas through 8/31/2011. The Board has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent's address of record is PO Box 71, Conway Springs, KS 67031.
3. After an investigation, the Board's investigative committee found reasonable grounds to believe that the Respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1120, and referred this matter for further proceedings.
4. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 et seq. to examine, license and renew license for duly qualified applicants and may limit, deny, suspend or revoke a license or authorization to practice nursing, may issue a public or private censure and levy administrative fines consistent with K.S.A. 74-1110, if a violation of K.S.A. 65-1120(a) is established.

FACTS COMMON TO ALL COUNTS

5. The facts below are common to all counts:

On or about 2/2/2005, while Licensee was employed by Wesley Medical Center, Wichita, Kansas, Licensee entered the room of a pediatric patient K.R. K.R. was yelling at and attempting to hit his mother. According to S.C. an employee of Wesley Medical Center,

Licensee jumped on K.R., pushed him back into the bed and used profanity in telling K.R. not to hit.

On or about 1/17/2005, while Licensee was employed at Wesley Medical Center, Licensee implemented an inappropriate physician's order and administered IV fluids at to high a rate to a pediatric patient. This incident occurred on or about January 17, 2005.

On or about 4/2/2007, Respondent entered a Diversion Agreement with the Kansas State Board of Nursing to resolve the above captioned case.

In the above mentioned Diversion Agreement, Licensee agreed to submit reports from the Licensee's employer to the attention of the Legal Division, Kansas State Board of Nursing, Landon State Office Building, 900 S.W. Jackson, Suite 1051, Topeka, Kansas 66612-1230 on the following schedule: Prior to Licensee securing employment that utilizes his or her nursing license, Licensee is to mail to the Kansas State Board of Nursing a statement indicating that Licensee has not yet secured employment which utilizes Licensee's nursing license. This statement is due by the 10th day of each month beginning the next month after signing this consent agreement. Once Licensee is employed in a position that utilizes his or her nursing license, or if Licensee is currently employed in a position that utilizes his or her nursing license, a nursing performance report is due by the 10th day of every third Month until Licensee has caused the submission of four (4) separate nursing performance reports. The report shall be prepared and signed by Licensee's immediate supervisor or by an R.N. who evaluates Licensee's performance on a regular basis...

Respondent has only submitted two employer evaluations to the Board. The first one was received on August 16, 2007 and the second was received on September 1, 2009. Respondent has not met the terms and conditions of the Diversion Agreement.

In the above mentioned Diversion Agreement, Respondent agreed that should the Respondent be found to have violated the Diversion Agreement the Respondent could not contest the following established violations:

1. K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (e), physical abuse, which shall be defined as any act or failure to act performed intentionally or carelessly that causes or is likely to cause harm to a patient.

2. K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(1), one or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board.

VIOLATIONS

6. Respondent has violated the Kansas Nurse Practice Act as follows:

1. K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (e), physical abuse, which shall be defined as any act or failure to act performed intentionally or carelessly that causes or is likely to cause harm to a patient.

2. K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(1), one or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board.

WHEREFORE, Petitioner requests a finding that the Respondent has violated the above mentioned Diversion Agreement, that Respondent has violated the Kansas Nurse Practice Act, that Respondent's license to practice nursing in Kansas be revoked, and that costs of this action should be assessed to the Respondent in the amount of \$70.00.

Respectfully submitted,

Stephen N. Six
Kansas Attorney General

By:


Alma A. Heckler, #11655
Assistant Attorney General