

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED
NOV 23 2016
KSBN

IN THE MATTER OF DELISA K. DEFEBKAUGH

License No. 13-73564-042
Case No. 15-1160-0

EFFECTIVE AS A
FINAL ORDER
DATE: 12-12-16

SUMMARY ORDER

Now on this 23rd day of November, 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, Delisa K. Defebaugh, 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 245 1600th St., Humboldt KS 66748.
2. Licensee is currently admitted to practice as a Registered Nurse in the state of Kansas. The Board has jurisdiction over the Licensee and the subject matter of this action.
3. On or about Febuary 17, 2015 through June 29, 2015, Licensee, employed by Rescare Homecare, was assigned to provide nursing care to patient A.S. in A.S.'s residence.
4. A.S. required 24 hour healthcare, and was being cared for by a few nurses on shift schedules.
5. Other nursing staff noticed inconsistancies in A.S.'s medication counts and suspected Licensee was taking some of A.S.'s narcotic pain medication.
6. Another nurse had observed Licensee caring for A.S. and noticed her hands were shaking so badly that Licensee struggled to give pain meds in a gastrostomy tube. Licensee was 30 minutes late to that shift as well.

7. The nurse working the shift prior to Licensee on or about June 28, 2015 counted A.S.'s medication for a total of 70 hydrocodone pills at the end of her shift and beginning of Licensee's shift.
8. During Licensee's shift, she documented giving A.S. three hydrocodone during the night.
9. The next shift the hydrocodone was counted again for a total of 62 pills. Therefore five pills were unaccounted for during Licensee's shift.
10. The Neosho County Sheriff's Office initiated an investigation on June 29, 2015.
11. A deputy compared A.S.'s Medication Administration Records (MAR) to the pharmacy records recording the amount of medication filled from February when Rescare took over the care of A.S. to the June events.
12. From February 17, 2015 through June 28, 2015, 280 hydrocodone pills had been prescribed to A.S. and 106 pills were documented as administered. Leaving a total of 112 hydrocodone pills unaccounted for.
13. Licensee admitted to a deputy that she had intentionally falsified the MAR, so that A.S.'s spouse did not know how much medication was given to A.S.
14. Licensee took a CVSA (lie detector test) administered by the Neosho County Sheriff's Office on July 9, 2015.
15. Licensee stated that she was currently taking prescribed narcotic medication to control neck and back pain.
16. Licensee commented that she would appear deceptive of the CVSA because she knew she had been deceptive on the MAR.
17. During the test, when Licensee was asked if she had taken any of A.S.'s medication, Licensee closed her eyes and looked away and said "no". This was viewed as a sign of deception.

18. Licensee further stated to the deputy, that she was sure she would lose her job over the false charting, but she would lose her license if she took the pills.

19. On January 14, 2016, Licensee entered a diversion agreement in the District Court of Neosho County, stipulating to a law enforcement report which concluded that Licensee diverted at least five hydrocodone pills from A.S.

APPLICABLE LAW

20. 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.

21. 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

22. K.S.A. 65-1120(a)(1) To be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing.

23. K.S.A. 65-1120(a)(6) to be guilty of unprofessional conduct as defined by rules and regulations of the board, namely K.A.R. 60-3-110(d) inaccurately recording, falsifying, or altering any record of a patient or agency or of the board.

24. K.S.A. 65-1120(a)(6) to be guilty of unprofessional conduct as defined by rules and regulations of the board, namely K.A.R. 60-3-110(n) diverting drugs, supplies, or property of any patient or agency.

25. K.S.A. 65-1120(a)(4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol.

CONCLUSIONS OF LAW

26. The Board has jurisdiction over the Licensee and the subject matter of this action, and such proceeding is held in the public interest.

27. The Board finds that the above facts support the above violations of the Kansas Nurse Practice Act; K.S.A. 65-1120.

28. 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. The Board may lift Licensee's suspension, upon Licensee producing documentation that she is fit to practice. At a minimum, Licensee must self-refer to the Kansas Nurses Assistance Program (KNAP), disclose this action to KNAP, and follow all recommendations and requirements of KNAP prior to her suspension being lifted.**
- 3. Licensee is ordered to pay \$100 in costs within 60 days of this order becoming final.**


Judith Hiner, RN, BSN
Investigative Committee, Chair

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 23rd day of November, 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:

Delisa Defebaugh
245 1600th St.
Humboldt KS 66748



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 12th day of December, 2016, the foregoing copy of the Summary Order, now final was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Delisa Defebaugh
245 1600th St.
Humboldt KS 66748



Michelle David # 26982
Special Assistant Attorney General