

BEFORE THE KANSAS STATE BOARD OF NURSING

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

IN THE MATTER OF AARON MITCHAM

License No. 13-83181-022

Case No. 09-915-7

FILED #584
OCT 26 2012 pab
KSBN

PROPOSED DEFAULT ORDER DENYING REINSTATEMENT OF LICENSE

NOW ON THIS 23rd day of October, 2012, petitioner, the Kansas State Board of Nursing, appears by disciplinary counsel, Michael R. Fitzgibbons, Assistant Attorney General, for a Hearing on the Petition. Respondent does not appear.

Wherefore, the Presiding Officer finds as follows:


1. Respondent's license to practice nursing in Kansas has lapsed and Respondent is appealing denial of reinstatement. 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 reinstatement of license to practice nursing is denied. 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 nursing 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 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.

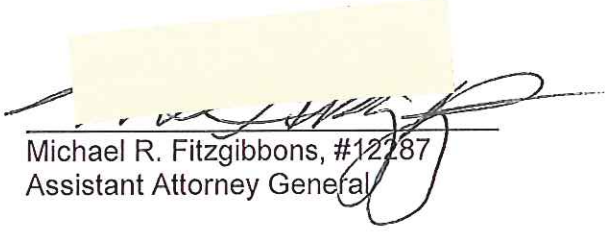


Michael R. Fitzgibbons, #12287
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson, Suite #1051
Topeka, KS 66612-1230
785-296-4325

CERTIFICATE OF SERVICE

I certify that on the 26th day of October, 2012, the foregoing copy of the PROPOSED DEFAULT ORDER TO DENY RESINSTATEMENT OF LICENSE was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Aaron P. Mitcham
9306 W. 90th Street
Overland Park, Kansas 66212.


Michael R. Fitzgibbons, #12287
Assistant Attorney General

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Landon State Office Building, 900 S.W. Jackson #1051
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IN THE MATTER OF AARON MITCHAM

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PETITION

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

1. Respondent, Aaron Mitcham, is applying for reinstatement of a lapsed license to practice nursing in Kansas. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record 9306 W. 90th Street, Overland Park, Kansas 66212.
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.

ACTS COMMON TO ALL COUNTS

5. The facts below are common to all counts:
 - a. According to the report, it is alleged that while you were employed by Kansas University Hospital, Kansas City, Kansas you had inappropriate contact with a patient of a sexual nature.

- b. Applicant failed to notify physician of change in patient status.
- c. Applicant failed to document observations of patient.
- d. It is also alleged that you violated patient confidentiality by telling your wife about this patient and her medical condition.
- e. This incident allegedly occurred on or about the 17th day of June, 2009.
- f. Applicant was charged with Aggravated Sexual Battery as a result of this incident.
- g. Applicant failed to disclose all misdemeanor convictions.
- h. Applicant has had prior contact with law enforcement in addition to his Wyandotte County Charge of Aggravated Sexual Battery.
- i. The Charge of Aggravated Battery was filed in Johnson County regarding a road rage incident.
- j. Also applicant was charged with disorderly conduct from an incident that occurred at his place of employment in Olathe, Kansas.
- k. Applicant allowed his license to lapse with the State of Kansas.

VIOLATIONS

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

Count 1 Pursuant to KAR 60-3-110 (f) Unprofessional conduct i.e. "commission of any act of sexual abuse, sexual misconduct or sexual exploitation related to the licensees' practice is shown in the allegations contained in the criminal complaint.

Count 2 K.S.A. 65-1120(a)(6) to be guilty of unprofessional conduct as defined by the rules and regulations.

Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct, by inaccurately recording, falsifying or altering documents.

Count 4 Violating the confidentiality of information or knowledge concerning a patient
KAR 60-3-110 (j)

Count 5 K.S.A. 65-1120(a)(7) willfully violating any of the provisions of the Kansas Nurse Practice Act and K.S.A. 65-1117(c)(1) B by failing to disclose all misdemeanor convictions.

WHEREFORE, petitioner requests a finding that the Applicant has violated the Nurse Practice Act, that respondent's request for reinstatement of his license to practice nursing in Kansas be denied, and that costs of this action be assessed to the respondent in the amount of \$70.00.

Respectfully submitted,

Derek Schmidt
Kansas Attorney General

By:


Michael R. Fitzgibbons #12287
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