

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

MAR 1 2011

IN THE MATTER OF

ABBY L. HESS

License No. 13-084262-082

KSBN

Case No. 08-480-7, 07-673-8

SUMMARY ORDER

Now this 1st day of March, 2011, 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 nursing license of Abby L. Hess by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. Respondent is licensed to practice nursing in Kansas through 8/31/2012. The Board has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent's address of record is 16580 W 155th Pl., Olathe KS 66062.
3. On 6/18/2009, Respondent entered into a Consent Agreement and Final Order with the Board to resolve an investigative case. In the 6/18/2009 Consent Agreement, Respondent stipulated to the following facts:
 - a. On or about 7/1/2007, Respondent entered the Emergency Room of Stormont Vail Hospital, Topeka, Kansas, with her grandfather. Respondent was not employed at Stormont Vail at the time but had previously been employed there as a nurse. While at Stormont Vail on 7/1/2007, Respondent removed oxycodone tablets from the omnicell medication dispenser. Respondent did this without authority and for her personal use. Oxycodone is a prescription only narcotic medication.
 - b. Respondent was employed at Shawnee Mission Medical Center (SMMC), Shawnee Mission, Kansas, between September of 2007 and October of 2007 as a nurse. During October of 2007, SMMC staff noted discrepancies in Respondent's charting of medications administered to patients and the time the medications were removed from the pyxis system. The medications involved in the discrepancies were prescription only narcotics which included: acetaminophen-codeine; oxycodone; acetaminophen-hydrocodone; acetaminophen-propoxyphene. On or about 10/18/2007, as a result to the above medication discrepancies, Respondent's employment with SMMC was terminated.
 - c. On or about 10/18/2007, Respondent entered the [REDACTED]

- d. On or about 11/7/2008, Respondent was contacted by KSBN Investigator, Betty Stewart. Respondent advised that during the time she was employed at SMMC, she diverted hydrocodone from SMMC for her own use.
 - e. Respondent is studying in preparation to obtain a CRNA license.
4. In the 6/18/2009 Consent Agreement, Respondent agreed to the following conditions and requirements:
- a. Respondent shall return his or her current license card to the Board with this Consent Agreement. Respondent shall receive a license card which shall be issued with an "S" placed in the status code portion of the license card to indicate that the license is suspended with a Stay. The card will have an "L" indicating the limitations on the practice.
 - b. Respondent will participate in and complete the reasonable recommendations and requirements of the Kansas Nurses Assistance Program (KNAP); sign releases of information necessary for KNAP to evaluate and monitor respondent and for KNAP to report information to the board. Respondent will be deemed to have completed the KNAP program when KNAP issues written notification that respondent has completed the program. Noncompliance with KNAP is a violation of this agreement.
 - c. Respondent must submit to random drug screens as determined or selected by the Board or by KNAP. The costs of the drug screens will be paid by the respondent. Respondent agrees that a Positive Drug Screen is a violation of this agreement.
 - d. Respondent will continue to comply with the KNAP CRNA ACCESS POLICY for one year from the effective date of this Agreement. Additionally, Respondent will Submit Reports regarding the KNAP CRNA ACCESS POLICY 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:
 - i. A report is due by the 10th day of every month for one year, beginning the month after this Agreement is executed by the Board.
 - ii. The report shall be prepared on facility letterhead and signed by Respondent's designated fellow health professional, as the term is used in the KNAP CRNA ACCESS POLICY. The designee shall include the following on each report:
 - 1. The date of the report identified.
 - 2. Designee's name, telephone number, address, license number and nursing credentials.
 - 3. Respondent's name, address, telephone number, license number.

4. The date and name of the facility of each surgery case for which the Respondent delivered anesthesia medications.
 5. Certification by the designee that the Respondent delivered all waste and empty syringes back to the original pick-up point (i.e. pharmacy).
 6. Certification by the designee that what was administered to the patient and what remains and after each case equals the total amount of all anesthesia medications that were delivered to the CRNA prior to each surgery case.
- e. Respondent shall immediately notify the Legal Division of any use of alcohol, if prohibited by KNAP, or controlled substances, or any violation of this Consent Agreement and Final Order.
 - f. The respondent shall immediately inform all attended clinical programs, employers and prospective employers of this Consent Agreement and the Final Order.
 - g. Respondent shall send a money order for \$70 to the Board upon entering into this agreement to pay the cost of this action.
 - h. Respondent shall not violate the Kansas Nurse Practice Act during the duration of this agreement.
 - i. Respondent shall not violate the laws of the United States, of State, or of any political subdivision of any State during the term of this agreement. Traffic infractions shall not be considered violations of the law.
 - j. Respondent shall not practice or participate in clinical settings without onsite supervision by a qualified nurse or instructor, for a period of one year. The parties agree that this provision prohibits the Respondent from practicing nursing or participating in clinical settings unless the supervising nurse or instructor is present within the same facility as the Respondent and the supervising nurse or instructor is available for periodic inspection of Respondent's tasks.
 - k. Respondent will Submit Reports from the Respondent's clinical setting 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:
 - i. A report is due by the 10th day of every Month until Respondent has completed clinicals.
 - ii. The report shall be prepared and signed by Respondent's immediate clinical instructor or by an R.N. who evaluates Respondent's performance on a regular basis and be based on the following guidelines:
 1. Incorporation of information on facility letterhead.

2. Letter format is acceptable, with the date of the report identified.
 3. Evaluator's name, telephone number, address, license number and nursing credentials.
 4. Respondent's name, address, telephone number, license number.
 5. A short explanation of the Respondent's work performance in the following areas:
 - a. Standards met regarding facility policies and procedures.
 - b. Compliance with the Kansas Nurse Practice Act.
 - c. Instructor evaluations.
 - d. Overall appropriateness.
 - e. Interactions with patients.
 - f. Interactions with staff and administration.
 - l. Respondent agrees to notify the Legal Division of any changes in address and phone number as well as all employment terminations or employer changes or additions. All such notifications shall be made in writing within fourteen (14) days of such a change.
5. The 6/18/2009 Consent Agreement also states:
- a. Respondent acknowledges and agrees that upon a first finding of Respondent not complying with the conditions or requirements of this Consent Agreement, the Stay of Suspension of Respondent's license to practice nursing in the State of Kansas, shall be lifted for a period of six months from the date of said finding. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension.
 - b. Respondent acknowledges and agrees that upon a second or subsequent finding of Respondent not complying with the conditions or requirements of this Consent Agreement the Stay of Suspension of Respondent's license to practice nursing in the State of Kansas, shall be lifted for a period of one year from the date of said finding. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension.
 - c. Respondent acknowledges and agrees that upon the Stay of Suspension being lifted due to a finding of non-compliance with this Consent Agreement, the Suspension will not again be Stayed until the Respondent has, following the prescribed time period of suspension, provided written verification to the Board that Respondent is in compliance with all conditions and requirements of this Consent Agreement. Upon the Respondent providing said written verification the suspension will again be stayed.

6. On or about 09/02/2010, Respondent's urine drug screen tested positive for Fentanyl, a violation of her 6/18/2009 Consent Agreement, paragraph 16(c).
7. On or about 1/24/2011, Respondent began employment with Osawatome State Hospital and Rainbow Mental Health Facility and did not inform the Board within 14 days, a violation of her 6/18/2009 Consent Agreement, paragraph 16(l).

CONCLUSIONS OF LAW

1. 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 Respondent, 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 Respondent violated the following provisions of the Nurse Practice Act:
 - a. K.S.A. 65-1120(a)(6), to be guilty of unprofessional conduct as defined by rules and regulations of the Board, by KAR 60-3-110(r), failing to comply with any disciplinary order of the board.
2. K.S.A. 77-511(a)(2)(A) and K.S.A. 77-537 of the Kansas Administrative Procedure Act authorize 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.

POLICY STATEMENT

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


IT IS THEREFORE ORDERED BY THE KANSAS STATE BOARD OF NURSING THAT:

1. Respondent's stay of suspension shall be lifted for a period of six months from the effective date of this Summary Order. Respondent is not allowed to practice nursing in the state of Kansas during the period of suspension.
2. Respondent's suspension will not again be stayed until Respondent has, following the six months of suspension, provided written verification to the Board that Respondent is in compliance with all conditions and requirements of the 6/18/2009 Consent Agreement.

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 *PN*
Investigative Committee, Chair
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

I certify that on the 2nd day of March, 2011, 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:

Abby L. Hess
16580 W 155th Pl.
Olathe, KS 66062

Carol R. Bonebrake
Counsel for Respondent
107 SW 6th St., Suite 210
Topeka, KS 66603



Danielle Sanger #24587 *ger*
Assistant Attorney General