

BEFORE THE KANSAS STATE BOARD OF NURSING

KSBN

IN THE MATTER OF

Case No. 05 693 9; 07 346 9
08 403 8Shawna D. Vandiver
License No. 13 085828 042

OAH No. 09BN0007

INITIAL ORDER

Now on this 22nd day of January 2009, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing. Sandra L. Sharon, duly appointed as Presiding Officer pursuant to K.S.A. 77-514. The Petitioner, the Kansas State Board of Nursing, appears by Assistant Attorney General, Mark A. Knight, Disciplinary Counsel for the Board. The Respondent, Shawna D. Vandiver, appears in person.

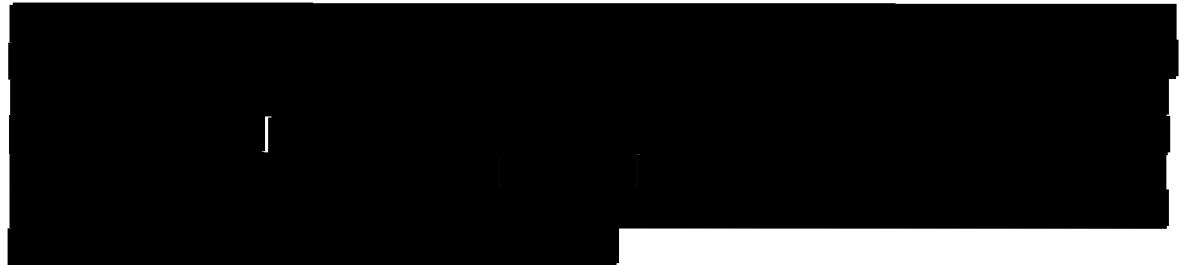
FINDINGS OF FACT

1. On May 11, 2006, the Respondent entered into a diversion agreement with the Kansas State Board of Nursing (Board).
2. The basis of the diversion agreement is that the licensee was involved in several discrepancies with narcotic dispensing records, altered doctor's orders and tampering with medications.
3. While working as the weekend RN at Medicalodge in Atchison, Kansas, a skilled nursing facility, several discrepancies in the facility's narcotic records were detected.
 - a. On December 30, 2006, Ms. Vandiver administered a Duragesic 25 mcg patch to a nursing facility resident with the initials C.V. This patch had been administered just the day prior, on December 29, 2006. This patch contains a narcotic agent and is to be administered every three days.
 - b. On January 21, 2007, the Respondent administered a Duragesic 75 mcg patch to a nursing facility resident with the initials L.H. This patch had just been administered to L.H. the day prior. The patch contained a narcotic agent and is to be administered every three days.
 - c. On February 10, 2007, the Respondent administered a Duragesic 75 mcg patch to a nursing facility resident with the initials C.K. This patch had been administered the day prior, on February 9, 2007. This patch contains a narcotic agent and is to be administered every three days. Further, on February 17, 2007 and February 18, 2007, the Respondent administered this same Duragesic 75 mcg, to C.K. The patch is to be administered every three days.
4. On March 2, 2007, the Respondent returned to the nursing facility after being terminated on February 24, 2007. Her reason for returning was to say goodbye

to some of the residents there. After she left C.K.'s room, C.K. turned on her call light and reported that her patch had been moved. An examination of C.K. indicated that her patch had indeed been moved where the patch had been was still visible on C.K.'s skin and the patch was in a different location. Further, the medication that belonged on the patch was missing. The patch had just been administered that morning.

5. On March 15, 2007, the Respondent went to the Atchison Wal-Mart Pharmacy and presented a prescription for Duragesic Transdermal Patches. The pharmacy was suspicious of the script and did not fill it. On the following business day, Monday, March 17, 2007, the pharmacy contacted James W. Rider, MD regarding the prescription. Dr. Rider confirmed the pharmacy's suspicion that he had not written the script for the Respondent. By letter dated March 21, 2007, Dr. Rider dismissed the Respondent from his practice for trying to pass falsified prescriptions.

6.



7. The Respondent's testimony at hearing included the following statements, "I am not even better yet...by no means healed" and "I am guilty of not taking a leave of absence...and sloppy nursing work."

CONCLUSIONS OF LAW

1. The Kansas State Board of Nursing has the authority under Kansas Statutes Annotated (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 in accordance with K.S.A. 74-1110, if a violation of K.S.A. 65-1120 is established.
2. The Respondent has violated the Nurse Practice Act as follows:
 - (a) Unable to practice with skill and safety due to current abuse of drugs or alcohol K.S.A. 65-1120(a)(4).
 - (b) Demonstrated professional incompetency through a pattern or practice or behavior which demonstrates manifest incapacity or incompetence to practice nursing, a violation of K.S.A. 65-1120(a)(3) and K.S.A. 65-1120(e)(3).
 - (c) Unprofessional conduct by failing to take appropriate action or follow policies and procedures in the practice situation designed to safeguard each patient, in violation of K.S.A. 65-1120(a)(6).

- (d) Demonstrated unprofessional conduct by failing to complete the requirements of the impaired provider program of the Board, in violation of K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(s).
- (e) Demonstrated unprofessional conduct in violation of K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(n) by diverting drugs and supplies or property of any patient.
- (f) Guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing in violation of K.S.A. 65-1120(a)(1).

CONCLUSION

1. The Respondent has committed numerous violations of the Nurse Practice Act and the diversion agreement she entered into with the Board. The Respondent's license to practice nursing in the state of Kansas is hereby revoked.
2. The cost of this action shall be assessed to the Respondent in the amount of \$70.00.

APPEAL RIGHTS AND OTHER ADMINISTRATIVE RELIEF

Pursuant to K.S.A. 77-527, either party may request a review of this initial order by filing a petition for review with the Kansas State Board of Nursing. A petition for review must be filed within 15 days from the date this initial order was served. 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: Mary Blubaugh, Executive Director, Board of Nursing, Landon State Office Building, Suite 1051, 900 SW Jackson, Topeka, KS 66612-1230.

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.

OFFICE OF ADMINISTRATIVE HEARINGS

Sandra L. Sharon
Presiding Officer
Office of Administrative Hearings

CERTIFICATE OF SERVICE

On _____, 2009, I mailed a copy of this document to:

Shawna D. Vandiver
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PO Box 81
Wetmore, KS 66550

Mary Blubaugh, Executive Director
Mark Knight, Assistant Attorney General
Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612

Staff Person
Office of Administrative Hearings