

FILED

AUG 04 2014

BEFORE THE KANSAS STATE BOARD OF NURSING

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

KSBN
FILED OAH

30 JUL '14 PM 3:50

IN THE MATTER OF HEATHER MARIE SMITH

License No 13-87627-022

Case No. 13-1996-6

PROPOSED DEFAULT ORDER TO REVOKE LICENSE

NOW ON THIS 31st day of July, 2014, 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 is licensed to practice nursing in Kansas through February, 2016. 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 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.

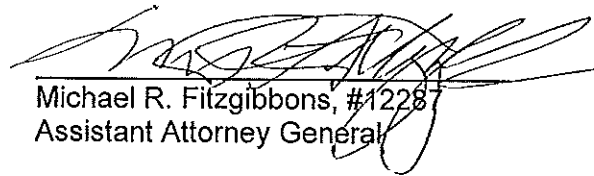


Michael R. Fitzgibbons, #12287
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson, Suite #1051
Topeka, KS 66612-1230
785-296-4325

CERTIFICATE OF SERVICE

I certify that on the 4th day of August, 2014, the foregoing copy of the PROPOSED DEFAULT ORDER TO REVOKE LICENSE was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Heather Marie Smith
P.O. Box 133
Cimarron, Kansas 67835


Michael R. Fitzgibbons, #1228
Assistant Attorney General

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

FEB 26 2014

IN THE MATTER OF HEATHER MARIE SMITH

License No 13-87627-022

KSBN

Case No. 13-1996-6

PETITION

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, Heather Marie Smith, is licensed to practice nursing in Kansas through October, 2015. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is P.O. Box 133 Cimarron, Kansas 67835.
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:
 - (a) While employed at St. Catherine's Hospital in Garden City, Kansas licensee tested positive in a UDS for Opiates (Oxycodone and oxymorphone) on the 1st day of December 2009.

- (b) Employer referred licensee to KNAP and signed a one year agreement on the 4th day of January, 2000.
- (c) Licensee admitted to staff that she was dependent on Lortab and Percocet.
- (d) Licensee completed this program on the 5th day of January, 2011.
- (e) Licensee was reported per pharmacy audit for excessive Percocet useage.
- (f) Another UDS was performed and tested positive for Opiates, Oxycodone and alternate opiates on the 8th day of October, 2013.
- (g) Licensee was observed to have red/bloodshot eyes, watery eyes, pale, drowsy/sleepy/nodding off, crying and difficult to locate
- (h) On the 14th day of October, 2013, licensee sent an email "I resign my position as staff nurse effective immediately due to family issues."
- (i) 13th day of January, 2013 licensee gave narcotic med to patient and did not document.
- (j) On the 1st day of May, 2013 licensee documented med given and the med was not given.
- (k) On the 8th day of July, 2013, licensee hung the wrong antibiotic for a patient.
- (l) Licensee was contacted by KSBN on the 10th day of December, 2013 and there has been no response.

VIOLATIONS

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

Count 1: K.S.A. 65 1120(a)(1) unprofessional conduct by fraud or deceit in practicing nursing.

Count 2: K.S.A. 65-1120(a)(6), unprofessional conduct, by inaccurately recording, falsifying or altering documents.

Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n) in past conduct;

Count 4: K.S.A. 65-1120 (3) to be guilty of unprofessional conduct failing to furnish the board, its investigators, or its representative with any information legally requested by the board KAR 60-3-110 (t).

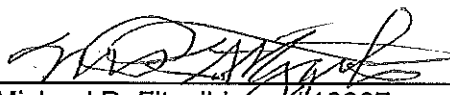
Count 5: K.S.A. 65-1120(a)(4) unable to practice with skill and safety due to current abuse of drugs or alcohol.

WHEREFORE, petitioner requests a finding that the respondent has violated the Nurse Practice Act, that respondent's license to practice nursing in Kansas be revoked, 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
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612