

## BEFORE THE KANSAS STATE BOARD OF NURSING

IN THE MATTER OF  
PAMELA KINDALL  
License No. 13-87879-082

Case No. 11-327-3 & 12-1355-3  
OAH No. 13BN0135

**INITIAL ORDER**

Now on this 9<sup>th</sup> day of July 2013, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing (Board/Petitioner). Sandra L. Sharon was duly appointed Presiding Officer pursuant to K.S.A. 77-514. The Petitioner, the Kansas State Board of Nursing, appears by Assistant Attorney General Alma A. Heckler, Disciplinary Counsel for the Board. The Respondent, Pamela Kindall, appears in person. Witnesses were Karen Peschka, John Childers, Pamela Kindall, Kay Sue Nothern, and Amber Ecland.

Findings of Fact

1. In or about May 2008, the respondent self-referred to the Kansas Nurse Assistance Program (KNAP) after testing positive for Benzodiazepines at work and being terminated.
2. While participating with KNAP, the respondent relapsed on alcohol on September 8, 2008.
3. The respondent's contract with KNAP was extended to September 8, 2011 due to the alcohol relapse.
4. On March 21, 2011, the respondent relapsed on Lortab, which she diverted from her place of employment. The respondent was found guilty of two misdemeanor counts of theft in the Municipal Court of Salina, Kansas on March 26, 2011 regarding the diversion of Lortab.
5. The respondent's participation in KNAP was extended to March 21, 2014 after her relapse on Lortab.
6. While participating in KNAP, the respondent failed to check-in on the random drug screen selection on December 23, 2011. The respondent was selected for a drug screen on December 23, 2011 and missed the drug screen. This was the respondent's first non-compliance with KNAP.
7. On January 10, 2012, the respondent failed to timely submit documentation of her attendance in two twelve-step meetings per week for the month of December 2011.
8. This was the respondent's second non-compliance with KNAP.

9. The respondent failed to participate in a KNAP monthly monitoring meeting for the month of July 2012. This was the respondent's third non-compliance with KNAP.
10. The respondent's KNAP case was closed due to three instances of non-compliance with the program.

#### Applicable Law

1. The Board has the responsibility and the authority to license, relicense, limit license, suspend, or revoke a license to practice nursing in the State of Kansas pursuant to K.S.A. 74-1106(c)(4) and K.S.A. 65-1120.
2. It is a violation of the Kansas Nurse Practice Act to be guilty of unprofessional conduct by diverting drugs of any patient or agency. K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(n).
3. It is a violation of the Kansas Nurse Practice Act to be guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant public trust. K.S.A. 65-1120(a)(2).
4. It is a violation of the Kansas Nurse Practice Act to be unable to practice nursing with skill and safety due to current abuse of drugs or alcohol. K.S.A. 65-1120(a)(4).

#### Discussion

1. When the appellant diverted two Lortab belonging to a resident of the nursing facility, she violated the Kansas Nurse Practice Act at K.S.A. 65-1120(a)(2) by being guilty of a misdemeanor involving an illegal drug offense raising questions about her fitness to warrant public trust.
2. Further, when the appellant diverted two Lortab belonging to a resident of the nursing facility, she was guilty of unprofessional conduct by diverting drugs of a patient. K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(n).
3. The respondent's noncompliance with KNAP causing her case to be closed is a violation of the Kansas Nurse Practice Act at K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(s).
4. Because the respondent's KNAP case is closed, the Board cannot be ensured she is able to practice nursing with skill and safety due to her abuse of drugs or alcohol. This is a violation of the Kansas Nurse Practice Act at K.S.A. 65-1120(a)(4).

### Conclusion


1. Due to the respondent's history of violations and the Kansas Nurse Practice Act, ultimately the Board cannot be sure that the appellant is safe to practice nursing. The Board's petition to revoke the respondent's license to practice nursing in the State of Kansas is granted.
2. Cost of this action shall be assessed against the respondent in the amount of \$70.00 pursuant to K.S.A. 65-1120(d).

### 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, 900 SW Jackson, Suite 1051, 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.

Pursuant to K.S.A. 77-530, if a request for review is not made in the time and manner stated above, this initial order shall become effective as a final order 30 days after service.



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Sandra L. Sharon  
Administrative Law Judge/Presiding Officer  
Office of Administrative Hearings  
1020 S. Kansas Ave.  
Topeka, KS 66612  
Telephone: 785-296-2433

CERTIFICATE OF SERVICE

On July 25, 2013, I mailed this original document through State Building  
Mail to:

Mary Blubaugh  
Executive Administrator  
Kansas State Board of Nursing  
900 SW Jackson, LSOB, Ste. 1051  
Topeka, KS 66612  
Telephone: 785-296-4325

and a copy of this document through State Building Mail to:

Alma Heckler  
Assistant Attorney General  
Disciplinary Counsel for the Kansas State Board of Nursing  
900 SW Jackson, LSOB, Ste. 1051  
Topeka, KS 66612  
Telephone: 785-296-4325

and a copy of this document through first class mail to:

Pamela Kindall  
419 S. Rothsay  
Minneapolis, KS 67467

  
Staff Person

Office of Administrative Hearings