

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

DEC 31 2013

KSBN

IN THE MATTER OF DIANNA M. BARAY AKA DIANNA M. PEREZ

License No. 13-93643-102 AND 23-32259-102

Case No. 13-1208-0

SUMMARY ORDER

NOW ON THIS 31st day of December, 2013, 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 proposed to find facts and take disciplinary action against the licensee's license by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. This Licensee is licensed to practice nursing in the state of Kansas. The Board has jurisdiction over the Licensee and the subject matter of this action.
2. Licensee's address of record is 9361 Bocina Ln #B Atascadero, CA 93422
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. Review of the information gathered by the Board revealed the following upon which this action is based.
 - (a) According to a report, it is alleged that licensee falsified her LPN application for licensure, her RN application for licensure and her RN online renewals
 - (b) Licensee failed to disclose a misdemeanor conviction.
 - (c) These incidents occurred on or about the 22nd day of May, 2003, the 8th day of April 2004, the 14th day of October 2010 and the 31st day of October, 2012.
 - (d) It is also alleged that California Board of Nursing has taken disciplinary action on your California nursing license.

- (e) Licensee failed to notify the Kansas State board of Nursing within 30 days.
- (f) This incident occurred on or about the 17th day of May, 2013,
- (g) Licensee was contacted by investigator on the 28th day of April, 2013 and has failed to respond.

5. This Licensee violate the Nurse Practice Act by unprofessional conduct by gross negligence in practicing nursing, inaccurately recording and failure to take appropriate action.

CONCLUSIONS OF LAW

- a. K.S.A. 65 1120(a)(1) unprofessional conduct by fraud or deceit in practicing nursing.
- b. K.S.A. 65-1120(a)(6), unprofessional conduct, by inaccurately recording, falsifying or altering documents.
- c. 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).
- d. K.S.A. 65-1120(a)(8), to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended ... by a licensing authority of another state.

6. 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 authorization, if the Licensee, Licensee or holder of a certificate of qualifications or authorization is found to have violated the Nurse Practice Act.

7. The above fact findings established evidence that the Licensee violated the following provisions of the Nurse Practice Act:

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 (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 4: K.S.A. 65-1120(a)(8), to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended ... by a licensing authority of another state.

K.S.A. 77-511(a)(2)(A) of the Kansas Administrative Procedure Act authorized by use of the summary proceedings do not violated any provision of law and the protection of the public interest does not require the state agency to give notice and opportunity to participate to persons other than the parties.

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

POLICY STATEMENT

1. Truthfulness is the hallmark of the nursing profession and failing to disclose criminal behavior and disciplinary action is a violation of public trust.


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

1. **Licensee's license to practice nursing in the state of Kansas is revoked.**
2. **Licensee shall pay \$70.00 costs of this action to the Board within thirty (30) days of the effective day of this Order.**

Pursuant to K.S.A. 77-537, the decision, which is called a Summary Order, is subject to your request for 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.


Judith Hiner RN, BSN
Investigative Committee, Chair
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

On the 31st day of December, 2013, I deposited a copy of this SUMMARY ORDER with the United States Postal Service, postage pre-paid, addressed to:

Dianna M Baray
9361 Bocina Ln #B
Atascadero, CA 93422


Michael R. Fitzgibbons #12287
Assistant Attorney General