

FILED

JAN 24 2012

KSBN

BEFORE THE KANSAS STATE BOARD OF NURSING

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

IN THE MATTER OF

AMIE L. SWANK

License No. 13-97888-092

Case No. 11-1220-5, 10-194-5

PROPOSED DEFAULT ORDER TO REVOKE LICENSE

NOW ON THIS 24th day of January, 2012, petitioner, the Kansas State Board of Nursing, appears by disciplinary counsel, Alma A. Heckler, Assistant Attorney General, for a Hearing on the Petition. Respondent does not appear.

Wherefore, the Presiding Officer finds as follows:

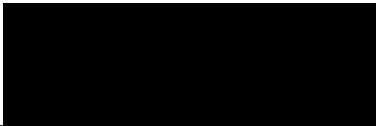
1. Respondent is licensed to practice nursing in Kansas through 9/30/2012. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent was sent a copy of the petition and notice of this hearing to respondent's last known address and service 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.



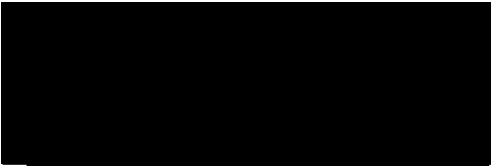
Sandra Sharon, Presiding Officer
Office of Administrative Hearings
1020 S Kansas Ave.
Topeka, KS 66612-1327

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.

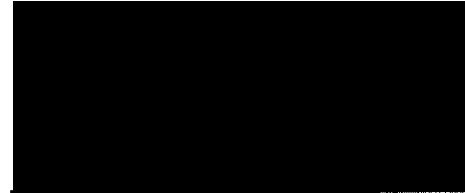


Alma A. Heckler, #11555
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson, Suite #1051
Topeka, KS 66612-1230
785-296-4325

CERTIFICATE OF SERVICE

I certify that on the 24th day of January, 2012, 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:

Amie Swank
412 Sioux Ct.
Kechi, Kansas 67067



Alma A. Heckler, #11555
Assistant Attorney General

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DEC 07 2011

IN THE MATTER OF
AMIE L. SWANK
License No. 13-97888-092

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PETITION

COMES NOW the Petitioner, the Kansas State Board of Nursing, by and through Assistant Attorney General assigned to the Board, Danielle R. Sanger, and for its cause of action states that:

1. Respondent, Amie L. Swank, is licensed to practice nursing in Kansas through 09/30/2012. The Board has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent's address of record is 412 Sioux Ct., Kechi KS 67067.
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. On or about 1/26/2010, the Board received information regarding Respondent, alleging that on or about 11/2009, at Wesley Medical Center, Wichita Kansas, a

Pyxis audit revealed medications that were not documented by Respondent as given or wasted and Respondent was found to have needles and saline in her purse.

- b. In an employee counseling report, dated 11/10/2009, Wesley Medical Center identified 46 controlled substance issues from 10/8/2009 to 11/6/2009 in Respondent's documentation in patient records.
- c. Effective 11/10/2009, Respondent was terminated from Wesley Medical Center based on gross misconduct in handling narcotics, policy violations, and non-compliance in administering medications.
- d. Based on the above information, on or about 12/16/2010, Respondent was directly referred to the Kansas Nurses Assistance Program for a chemical dependency evaluation and subsequent monitoring, if recommended.
- e. On or about 3/23/2011, the Board received information regarding Respondent, alleging that on or about 3/21/2011, Respondent informed KNAP that she was unable to participate in the KNAP program due to financial issues and a pending surgery.
- f. On or about 8/15/2011, the Board received information regarding Respondent, alleging that on or about 8/12/2011, Respondent's KNAP case was closed.
- g. On or about 9/14/2011, the Board received information regarding Respondent, alleging that on or about 9/10/2011, at Wichita Nursing Center, Wichita Kansas, Respondent was responsible for a patient, R.B., being dropped.
- h. In Respondent's report dated 9/10/2011 regarding dropping R.B., Respondent stated, "Resident and I were talking about him leaving and getting treated for ↑ (increased) behaviors. Resident was very apologetic and kept trying to touch me. I told him I need to get his clothes together. He sat up and asked for a hug. I told him he could have a small hug if he would behave himself and keep hands to

himself. I gave him a hug and when he let go, he shot passed me on my left side to try and throw himself on the ground. I held on. I was trying to call for help. He was somewhat lowered to the ground. On the way down he hit his head on the night stand or floor.”

- i. Per R.B.'s plan of care, a note dated 8/11/2011 states, “will ask for hugs & tell staff he ‘loves’ them (female staff). Explain to R.B. inappropriateness, offer gentle pat on back or shoulder, avoid bending down or giving him opportunity to touch (if getting to close). Explain that staff ‘likes’ him as well. He may misinterpret responses of ‘love.’ Remind to keep pants pulled up, not to expose self. Have male staff help with care when able or assist female staff when able. Do not flirt back with him. Refer to charge nurse or SSD for 1-1. Firm but kind redirection.”
- j. Per R.B.'s plan of care, a note dated 9/9/2011 states, “2 staff to assist with care, use male staff when at all possible. Do not react/laugh or ‘flirt’ back with him. Be firm and direct that it is not appropriate to touch staff.”
- k. Per Wichita Nursing Center's standards of conduct, “To ensure orderly operations and provide the best possible work environment, the company expects employees to follow rules of conduct that will protect the interests and safety of all employees and the company. It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. The following are examples of infractions of rules of conduct that are strictly prohibited:
 - ...
 - Violation of safety or health rules.”
- l. Following the 9/10/2011 incident at Wichita Nursing Center, Respondent's post accident urine drug screen, dated 9/10/2011, was positive for Benzodiazepine and Methadone. Respondent provided copies of prescriptions for Methadone and

Hydrocodone to Wichita Nursing Center; however, no prescription was provided for a benzodiazepine.

- m. On 9/21/2011, Respondent was terminated from Wichita Nursing Center for violating safety or health rules.

VIOLATIONS

- 6. Respondent has violated the Kansas Nurse Practice Act as follows:
 - 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 6-3-110(c), failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient;
 - b. K.S.A. 65-1120(a)(6), to be guilty of unprofessional conduct as defined by rules and regulations of the board, by KAR 6-3-110(s), failing to complete the requirements of the impaired provider program of the board.

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: 

Danielle R. Sanger #24587
Assistant Attorney General
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900 SW Jackson #1051
Topeka, KS 66612