

148N0058

4/24

**BEFORE THE KANSAS STATE BOARD OF NURSING**  
Landon State Office Building, 900 S.W. Jackson #1051  
Topeka, Kansas 66612-1230

FILED

**IN THE MATTER OF**  
**BRINDA NYGAARD**  
License No. 14-101705-122

APR 29 2014

FILED DAF

KSBN

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Case No: 10-1237-4 and 13-1645-4

**PROPOSED DEFAULT ORDER TO REVOKE LICENSE**

NOW ON THIS 24th day of April, 2014, petitioner, the Kansas State Board of Nursing, appears by disciplinary counsel, Alma A. Heckler, Assistant Attorney General, for a Status Conference on the Petition and hearing on the matter. Respondent's counsel withdrew and Respondent has not made contact with the Board. Respondent does not appear.

Wherefore, the Presiding Officer finds as follows:

1. Respondent is licensed to practice nursing as an RN in Kansas through 12/31/2014 and was licensed to practice nursing at the time of the misconduct alleged in the petition. 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 address of record with the Board. Service is proper. Respondent does not appear for the show cause. Respondent's attorney reported to the Board that she no longer represents the respondent. Respondent has failed to maintain contact with her or with the Board.
3. Petitioner moves for issuance of a proposed default order revoking respondent's RN 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 her original Kansas nursing certificate and any license cards in her possession 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.**



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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 30<sup>th</sup> 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.




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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 29<sup>th</sup> day of April, 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:

Brinda Kay Nygaard  
419 Jennings  
Anthony, Ks. 67003



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Alma A. Heckler, #11555  
Assistant Attorney General

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

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**IN THE MATTER OF**  
**BRINDA NYGAARD**  
License No. 14-101705-122

KSBN

**Case No: 10-1237-4 and 13-1645-4**

**PETITION**

COMES NOW the petitioner, the Kansas State Board of Nursing, by and through Assistant Attorney General assigned to the Board, Alma A. Heckler, and for its cause of action states that:

1. Respondent, Brinda Nygaard, is licensed to practice nursing in Kansas through 12/31/2014. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 419 N. Jennings, Anthony, Kansas 67003.
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) In Case No. 10-1237-4, Respondent was employed by Harper County Health Department on or about 9/8/2010. She visited a patient on 9/8/2010 and after she left his home, he noticed his hydrocodone bottle was out of place. He had refilled his

prescription on 8/18/2010 and the bottle contained 60 pills. He had not taken any for pain but 40 pills were missing from the bottle. He contacted the Sheriff and Harper County Health Department. Respondent was terminated on 9/11/2010.

(b) On 9/24/2010 the Administrator of Harper County Health Department completed a notarized statement regarding an incident involving the Respondent. She stated the Respondent turned in her equipment and bags on or about 9/11/2010. The equipment and bags were locked in an office. When the bag was opened it contained a prescription bottle with a patient name listed. The bottle contained Baclofen. Sheriff was called and took possession of the prescription.

(c) Respondent was interviewed by the Harper County Sheriff's office. She admitted she took the hydrocodone pills but did not admit to taking any other medications from any other patients. She indicated that she took the hydrocodone because she was "hurting" and not with the intent to sell it.

(d) Respondent in Case No. 13-1645-4 while employed at Kiowa Manor Nursing Home, Kiowa, Kansas on or about 4/24/2012 to 2/19/2013 and reportedly diverted approximately 614 pills from the safe box at Kiowa Manor. The safe box contains controlled substances to be destroyed. When the safe box was opened on February 12, 2013 it was empty. The log of medications to be destroyed contained 614 doses of Lortabs, Alprazolam, Lorazepam, Morphoral, Oxycodone/apap, Morphine, Acetam/COD#3, and Drazepam. The Respondent put in her notice to resign her position the day after the safe box was found emptied of all medications to be destroyed. Respondent had access to the medications in the safe box. Respondent blamed the loss on the lax security at Kiowa Manor.

(e) Respondent has admitted to a theft of hydrocodone pills.

#### VIOLATIONS

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

Count 1: K.S.A. 65-1120(a)(3), to have committed an act of professional incompetency as defined in subsection (e)(3); a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing;

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

Count III: K.S.A. 65-1120(a)(6), unprofessional conduct, by diverting drugs, supplies, or property of any patient or agency, K.A.R. 60-3-110(n);

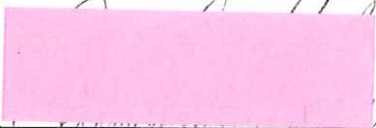
Count IV: K.S.A. 65-1120(a)(6), unprofessional conduct, by failing to furnish the board, its investigators, or its representatives with any information legally requested by the board;

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 at least the amount of \$70.00.

Respectfully submitted,

Derek Schmidt  
Kansas Attorney General

By:

  
Alma A. Heckler, #11555  
Assistant Attorney General  
Kansas State Board of Nursing  
Landon State Office Building  
900 SW Jackson #1051  
Topeka, KS 66612