

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED
APR 26 2010
KSBN

**IN THE MATTER OF
BRIGGETTE B. GREY
License No. 14-105586-021**

Case No. 09-062-0

SUMMARY ORDER

Now this 26th day of April 2010, 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 proposes to find facts and take disciplinary action against the registered nurse license of Briggette B. Grey (Licensee) by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. Licensee was licensed by endorsement to practice nursing in Kansas on July 11, 2008, and is so licensed to date.
2. Licensee's address of record is 531 Lakewood Blvd., Park Forest, IL 60466.
3. On Licensee's endorsement application, Licensee disclosed a previous action against her Illinois license.
4. A Certification of Licensure received by the Board on April 24, 2008, from the Illinois Department of Financial and Professional Licensure verified that Licensee's nursing license was active and further stated, "This licensee has been disciplined due to failure to pay student loan." The certified records included a copy of an Order to Restore.
5. Despite the history, after investigation, Licensee's application was granted and a license was issued.
6. By letter of July 8, 2008, the Board's investigator advised Licensee that she would be licensed and would be "**required** to answer "yes" to the discipline question on any/all future nursing applications submitted to KSBN" and could simply state that the action was previously reported and cite the case number 08-188-0.
7. On or about February 12, 2009, the Board received Licensee's application for renewal of Licensee's Kansas license.
8. Question number 11 of the application asks, "Has **any** license, certification or registration (nursing or other) *ever* been denied, revoked, suspended, limited or disciplinary action taken by a licensing authority of any state, agency, of the US government, territory of the US or country?" (Italics added.) The question further directs the applicant to attach a certified copy of the order if the answer is "yes."
9. Licensee marked "No."

10. Based on a facially sufficient application, the renewal was promptly issued.
11. By letter of February 16, 2009, the Board's investigator inquired about the discrepancy between the two applications and directed Licensee to submit a letter explaining why she failed to report the Illinois disciplinary action on the renewal application.
12. By letter dated February 28, 2009, and received by the Board March 9, 2009, Licensee explained that she misread the question to call for any disciplinary actions since she was licensed in Kansas.
13. Included with Licensee's letter were copies of Licensee's original explanation of the action, an uncertified copy of an Illinois Department of Professional Regulation "Order to Restore," and an uncertified copy of a discharge order from the Northern District of Illinois, Eastern Division, Bankruptcy Court.
14. Licensee's letter states that she had been denied renewal in Illinois on the ground of default on a student loan but that, prior to the expiration date of her license, an order restored her eligibility to renew and she never lost the ability to practice.
15. The September 26, 2000, bankruptcy discharge order reflects that the bankruptcy case was filed on December 15, 1995.
16. The Order to Restore states that on March 15, 1996, the Department issued an Order refusing renewal of Licensee's license that would expire May 31, 1996, and later received notice of the pending bankruptcy case. The Order to Restore, dated May 18, 1996, purports to vacate the previous order pursuant to the bankruptcy stay provisions and restores Licensee to good standing.
17. By letter of January 28, 2010, addressed to Licensee's address of record, the Board's investigator advised Licensee of a staff decision that the matter would be resolved informally if Licensee would take two hours of continuing nurse education (CNE) on the Kansas Nurse Practice act in addition to CNE hours required for the next renewal. The investigator directed Licensee to reply by February 11, 2010, to accept or reject the offer.
18. Licensee did not respond.
19. On March 15, 2010, the Board directed the investigator to send another letter extending the same offer, and the investigator did so by letter of March 17, 2010, setting a deadline of March 28, 2010, to accept or decline.
20. By letter of April 7, 2010, legal staff renewed the offer and advised Licensee that failure to respond to the investigator's letters was an independent basis for disciplinary action.
21. To date, Licensee has not responded.

CONCLUSIONS OF LAW

22. 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 this act or may publicly or privately censure a holder of a certificate of qualification or authorization upon making any of the findings listed in K.S.A. 65-1120(a).

23. In addition, if the applicant, licensee or holder of a certificate of qualification or authorization is found to have violated any provision of the Nurse Practice Act, the Board may levy a civil fine of up to \$3000 for each violation in accordance with K.S.A. 74-1110.

24. The Board has jurisdiction over the Licensee and the subject matter of this action.

25. A petition filed under sections 301, 302, and 303 of the U.S. Bankruptcy Code operates as an automatic stay, applicable to all entities, of collection efforts against the debtor unless the effort is listed as an exception, and the stay continues until the case is closed or dismissed or a discharge is granted. See 11 U.S.C. 362.

26. It is unnecessary to determine whether the stay actually applied to the Illinois licensing action; it is sufficient to conclude that the Illinois licensing authority believed that it did and, despite the caption of the Order to Restore, "vacated" the order denying renewal in compliance with the bankruptcy stay. Any interpretation of the order that does not nullify the order entirely would render it a permanently adverse action against the bankruptcy debtor in violation of the stay. The 2008 verification is inconsistent with the text of the order but consistent with the caption.

27. Based on that inconsistency in the Illinois records, Licensee cannot accurately answer the question posed with either "yes" or "no." However, Licensee did not have to interpret the question and make a decision because the Board's investigator gave clear instructions in the July 8, 2008, letter, which Licensee disregarded. A simple disclosure of the history with a citation to the 2008 case, as Licensee was instructed, would have adequately explained the appearance of adverse history.

28. Licensee's failure to acknowledge and explain the Illinois disciplinary action constitutes a violation of the Nurse Practice Act and grounds for action against Licensee's license pursuant to K.S.A. 65-1120(a)(6), for unprofessional conduct as defined by K.A.R. 60-3-110(d), inaccurately recording on any record of the Board.

29. Licensee's failure to respond to the Board's investigator's inquiry constitutes a violation of the Nurse Practice Act and grounds for action against Licensee's license pursuant to K.S.A. 65-1120(a)(6), for unprofessional conduct as defined by K.A.R. 60-3-110(t), failing to furnish the Board's investigator with any information legally requested by the Board.

30. K.S.A. 77-537 of the Kansas Administrative Procedure Act authorizes the use of summary proceedings by a state agency if the use of summary proceedings does not violate any provision of law, the protection of the public interest does not require the state agency to give notice and an opportunity to participate to persons other than the parties, and the agency believes in good faith that the evidence supports the findings to the applicable standard of proof.

31. The role of the Kansas State Board of Nursing is to protect citizens of Kansas, and the proposed action furthers that goal by promoting complete and accurate disclosure on applications and prompt communication and cooperation in follow-up investigations.

IT IS THEREFORE ORDERED BY THE KANSAS STATE BOARD OF NURSING THAT Licensee's license to practice nursing in Kansas is SUSPENDED and shall remain suspended until after Licensee submits the original certificate of completion of a two hour course on the Kansas Nurse Practice Act, which shall not be included in the hours required for Licensee's next renewal. Licensee shall not practice nursing in Kansas unless and until further order of the Board lifts the suspension.

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


Janet Jacobs, LPN
Investigative Committee, Chair
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

I certify that on the 26th day of April, 2010, the foregoing copy of the Summary Order was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Brigette B. Grey
531 Lakewood Blvd.
Park Forest, IL 60466


Brenda J. Clary
Assistant Attorney General