

BEFORE THE KANSAS STATE BOARD OF NURSING

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KSBN

IN THE MATTER OF
THOMAS M. BAKER
License No. 14-108566-012

Case No. 08-276-0
OAH No. 13BN0095

INITIAL ORDER

Now on this 29th day of January 2013, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing (Board). Sandra L. Sharon was duly appointed as Presiding Officer pursuant to K.S.A. 77-514. The Petitioner, the Board, appears by Assistant Attorney General Alma A. Heckler, Disciplinary Counsel for the Board. The Respondent, Thomas M. Baker, appears in person.

This matter was initially scheduled as a prehearing. On the respondent's verbalization that he did not desire a hearing be set for a future date and on the Board's motion, pursuant to K.S.A. 77-517 the prehearing was converted to a hearing.

Findings of Fact

1. On August 2, 2007, the respondent entered into a settled agreement with the Missouri State Board of Nursing. In that settlement agreement the Respondent agreed that he failed to document the administration and/or wastage of morphine on twenty-four different occasions, fentanyl on one occasion, lorazepam on five occasions, and hydrophone on one occasion.
2. On January 31, 2007, the respondent submitted to a for-cause drug screen. The results of the drug screen were positive for lorazepam, benzodiazepine, and morphine.
3. On August 2, 2007, a State of Missouri Board of Nursing disciplinary order was issued against the respondent.
4. On June 8, 2009, the respondent entered into a Consent Agreement and Final Order with the Kansas State Board of Nursing. In the Consent Agreement and Final Order the respondent agreed that he had a discipline order against him from the State Board of Nursing in the State of Missouri and he had entered into a settlement agreement with the Missouri State Board of Nursing wherein he admitted he failed to document administration or wastage of morphine, fentanyl, lorazepam, and hydrophone. There were a total of thirty-two times the respondent failed to documents wastage. The respondent also admitted he tested positive for lorazepam and morphine on July 31, 2007.
5. In the Consent Order and Final Agreement the respondent agreed to participate in the Kansas Nurse Assistance Program (KNAP). Participation included evaluation and monitoring activities.

6. By notice dated November 5, 2012 the respondent and the Kansas State Board of Nursing was informed that the respondent's case with KNAP had been closed due to three incidents of non-compliance.
7. On December 7, 2012 the Kansas State Board of Nursing filed a petition to revoke the respondent's license to practice nursing in the State of Kansas based on his failure to participate in the KNAP program.

Applicable Law

1. The Kansas State Board of Nursing has the authority to deny, revoke, limit, or suspend any license issued or applied for under the Kansas Nurse Practice Act. K.S.A. 65-112a.
2. It is a violation of the Kansas Nurse Practice Act when a licensed individual or applicant is guilty of unprofessional conduct as defined by the rules and regulations of the Board. K.S.A. 65-1120(a)(6).
3. Unprofessional conduct includes failing to comply with any disciplinary order of the Board. K.A.R. 60-3-110(r).
4. It is unprofessional conduct to fail to complete the requirements of the impaired provider program of the Board. K.A.R. 60-3-110(s).

Conclusion

1. The respondent participated in unprofessional conduct by failing to comply with the disciplinary order he entered into with the Board on June 8, 2009. This is a violation of K.S.A. 65-112(a)(6) and K.A.R. 60-3-110(r).
2. The respondent has participated in unprofessional conduct by causing his KNAP case to close due to non-compliance. This is violation of K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(s).
3. The Board's petition to revoke the respondent's license to practice nursing in the State of Kansas is granted.
4. 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.



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 Feb. 11, 2013, I mailed this original document through State Building
Mail to:

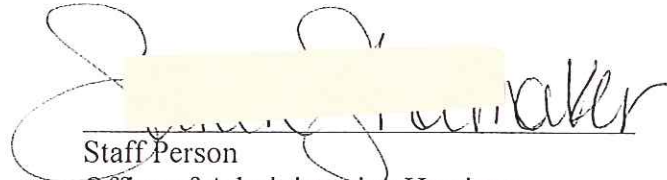
Mary Blubaugh
Executive Administrator
Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612
Telephone: 785-296-4325

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:

Thomas M. Baker
206 Bitterwood Dr.
Ballwin, MO 63021


Staff Person
Office of Administrative Hearings