

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
Nathan Jeremy Herman**

JAN 12 2016

License No. 14-130394-072
Case No. 15-1170-7

KSBN

SUMMARY ORDER TO SUSPEND LICENSE

Now on this 12th day of January, 2016, 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 nurse license of Nathan Jeremy Herman, (Licensee) by way of Summary Order as provided by K.S.A. 77-537.

1. a. Licensee is licensed to practice nursing in the state of Kansas through 7-31-2016. The Board has jurisdiction over the Licensee and the subject matter of this action.
b. Licensee's address of record is 16208 Rolling Ridge Road, Omaha NE 68135.
2. The role of the Kansas State Board of Nursing is to protect citizens of Kansas.
3. 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 this act or may publicly or privately censure a licensee or holder of a certificate of qualification or authorization, if the applicant, licensee or holder of a certificate of qualification or authorization is found to have violated the Nurse Practice Act. Pursuant to K.S.A. 74-1110 the Kansas State Board of Nursing may also assess a civil fine not to exceed \$1,000.00 for the first violation of a law or rule and regulation applicable to the practice for which such person has been granted a license.
4. After an investigation, the Board's investigative committee found reasonable grounds to believe that the Applicant violated the Kansas Nurse Practice Act, K.S.A. 65-1120, and referred this matter for further proceedings.

FINDINGS OF FACT

5. The facts below are common to all counts:
 - (a) On July 1, 2015 the Respondent was employed as a nurse at Golden Living Center.
 - (b) On July 1, 2015 the Respondent documented that a resident who was requesting toileting was told to void in his pants, and he would be cleaned up later.

- (c) When the Respondent was confronted by staff about this documentation, the Respondent claimed he had not documented anything that he had said, only that he had documented what a technician had said. He could not identify who the technician was. He admitted he personally heard the technician say this to the resident, but suggested his lack of timely intervention was due to impaired mentation attributable to his apnea.
- (d) Staff at Golden Living Center report the Respondent had a history of falling asleep, to include falling asleep while standing up.
- (e) The Respondent has a history of treatment for apnea, bipolar disease, depression, and anxiety.
- (f) Since at least 2011 health care providers have suggested work restrictions to accommodate the Respondent's illnesses, he has missed significant periods of employment due to his illnesses, work duties were limited in scope because of these illnesses, and he was discharged from employment on or about September 2, 2015 because the employer could not accommodate such restrictions.
- (g) The Respondent admitted to the investigator for the Kansas State Board of Nursing that his medical issues affect his ability to practice with skill and safety.

VIOLATIONS

6. The above fact findings establish evidence that the Licensee violated the following provisions of the Kansas Nurse Practice Act:

Count 1: K.S.A. 65-1120(a)(3), to have committed acts of professional incompetency, i.e. repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; and a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

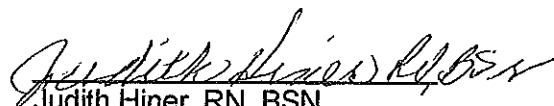
7. K.S.A. 77-511(a)(2)(A) of the Kansas Administrative Procedure Act authorizes the use of summary proceedings by a state agency if the use of summary proceedings does not violate any provision of law, the protection of the public interest does not require the state agency to

give notice and an opportunity to participate to persons other than the parties, and the state agency believes in good faith, after investigation of the facts, that the allegations will be supported to the applicable standard of proof.

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

1. **Licensee's license is suspended until a KNAP evaluation has been completed and the Board finds that Licensee is safe to practice, with or without limitations.**
2. **Licensee is referred to KNAP for an evaluation of his fitness to practice nursing.**
3. **Licensee shall not practice nursing in the state of Kansas.**
4. **Licensee shall pay \$100.00 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, 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. If a hearing is requested, the prior issuance of a summary order shall not affect the burden of proof. 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.

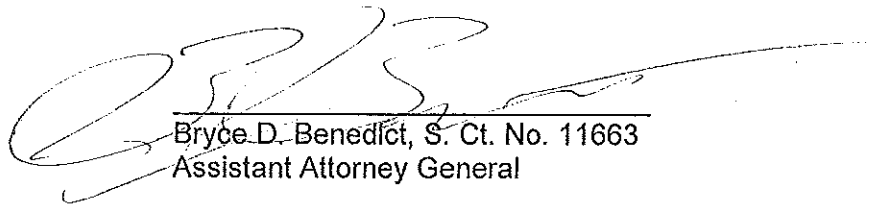

Judith Hiner, RN, BSN
Investigative Committee, Chair
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

I certify that on the 12th day of January, 2016, 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:

Nathan Herman
16208 Rolling Ridge Road
Omaha NE 68135





Bryce D. Benedict, S. Ct. No. 11663
Assistant Attorney General