

**BEFORE THE KANSAS STATE BOARD OF NURSING**

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

FILED

JAN 07 2014

**IN THE MATTER OF CHERYL DENISE MCANALLY**

KSBN

License No. 14-63824-061

Case No. 13-1251-9

**SUMMARY ORDER**

NOW ON THIS 7<sup>th</sup> day of January, ~~2013~~ <sup>2014</sup>, 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 proposed to find facts and take disciplinary action against the licensee's license by way of Summary Order as provided by K.S.A. 77-537.

**FINDINGS OF FACT**

1. This Licensee is licensed to practice nursing in the state of Kansas. The Board has jurisdiction over the Licensee and the subject matter of this action.
2. Licensee's address of record is 704 Crestridge Drive Kearney MO 64060.
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. Review of the information gathered by the Board revealed the following upon which this action is based.
  - (a) According to a report, it is alleged that licensee was pulling significantly higher amounts of narcotics from the medicine dispenser while employed by the University of Kansas Hospital.
  - (b) Licensee was terminated from her employment for administration and documentation concerns including a total missing narcotics that could not be accounted for.
  - (c) Licensee was terminated on the 1<sup>st</sup> day of May, 2013.

- (d) Licensee was arrested and charged with four counts of Felony Theft and four counts of forgery in Case No 11CR2454 in Johnson County Kansas on the 3<sup>rd</sup> day of November, 2011.
- (e) On the 17<sup>th</sup> day of July, 2013, Respondent entered a plea agreement where she pled guilty to one felony count of Theft, a level 5 non person felony and four counts of forgery, severity level 8 non person felonies.
- (f) At Sentencing, a Motion for upward durational departure was filed by the state due to the offense involving a fiduciary relationship with the Respondent and the victim.
- (g) The Respondent was sentenced to a 96 month controlling sentence and no probation was order as the sentence will be served.
- (h) Restitution was ordered in the amount of One Million two thousand seven hundred twenty seven dollars and thirty five cents (\$1,002,727.35)

5. This Licensee violate the Nurse Practice Act by unprofessional conduct by gross negligence in practicing nursing, inaccurately recording and failure to take appropriate action.

#### CONCLUSIONS OF LAW

- a. K.S.A. 65 1120(a)(1) unprofessional conduct by fraud or deceit in practicing nursing.
- b. K.S.A. 65-1120(a)(6), unprofessional conduct, by inaccurately recording, falsifying or altering documents.
- c. K.S.A. 65-1120(a)(6) to be guilty of unprofessional conduct as defined by the rules and regulations.
- d. K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n) in past conduct;

6. 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 authorization, if the Licensee, Licensee or holder of a certificate of qualifications or authorization is found to have violated the Nurse Practice Act.

7. The above fact findings established evidence that the Licensee violated the following provisions of the Nurse Practice Act:

Count 1: K.S.A. 65 1120(a)(1) unprofessional conduct by fraud or deceit in practicing nursing.

Count 2: K.S.A. 65-1120(a)(6), unprofessional conduct, by inaccurately recording, falsifying or altering documents.

K.S.A. 65 1120(a)(1) unprofessional conduct by fraud or deceit in practicing nursing.

Count 3: K.S.A. 65-1120(a)(6) to be guilty of unprofessional conduct as defined by the rules and regulations.

Count 4: K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n) in past conduct;

K.S.A. 77-511(a)(2)(A) of the Kansas Administrative Procedure Act authorized by use of the summary proceedings do not violated any provision of law and the protection of the public interest does not require the state agency to give notice and opportunity to participate to persons other than the parties.

8. The role of the Kansas State Board of Nursing is to protect citizens of Kansas.

#### **POLICY STATEMENT**

1. Truthfulness is the hallmark of the nursing profession and failing to disclose criminal behavior and disciplinary action is a violation of public trust.
2. Theft and Forgery felony convictions violate the public trust and tend to show poor moral character posing a danger to the public at large.

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

1. **Licensee's license to practice nursing in the state of Kansas is revoked.**

2. Licensee shall pay \$70.00 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, the decision, which is called a Summary Order, is subject to your request for 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.

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

**CERTIFICATE OF SERVICE**

On the 7<sup>th</sup> day of ~~December~~, <sup>January 2014</sup> 2013, I deposited a copy of this SUMMARY ORDER with the United States Postal Service, postage pre-paid, addressed to:

Cheryl Denise McAnally  
704 Crestridge Drive  
Kearney MO 64060

  
Michael R. Fitzgibbons #12287  
Assistant Attorney General