

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

MAY 10 2010

**IN THE MATTER OF
LARRY M. FREYBERGER
License No. 14-72505-092**

KSBN

Case No. 10-007-0

SUMMARY ORDER

Now this 10th day of May 2010, the above matter comes before the Kansas State Board of Nursing (Board) pursuant to authority granted to the Board by K.S.A. 74-1106 and 65-1120. The Board hereby proposes to find facts and deny the registered nurse reinstatement application of Larry M. Freyberger (Applicant) by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. Applicant was previously licensed to practice nursing in the state of Kansas. Applicant's license to practice nursing in the state of Kansas as a registered nurse lapsed on or about September 30, 2008. On or about December 29, 2009, the Board received Applicant's application for reinstatement of Applicant's license to practice nursing in the state of Kansas.

2. Applicant's address of record is 12625 Oakmont Drive, Platte City, MO 64079.

3. This action is based upon review of the application, the Board's records, and other information gathered by the Board for purposes of ruling on the application.

4. Applicant's application reflects that Applicant has been employed by the U.S. Army and working in Kansas since September 2005.

5. The application further reflects that Applicant has previously been licensed as a registered nurse in Georgia and Tennessee but does not currently hold a license in any state.

6. [REDACTED]

[REDACTED] According to the supervisor, Applicant returned to work part-time in July 2009 and worked in a position requiring a nursing license until it was discovered, in December 2009, that his license had lapsed.

7. On or about January 6, 2010, the supervisor stated that Applicant has a very short attention span, and while he is able to say what needs to be done, he is not able to follow through. The supervisor does not believe Applicant can safely practice nursing.

8. On or about January 28, 2010, Applicant told the Board's investigator that he had been working in community health doing assessments from July, beginning with about three hours per day, until it was discovered that he had no license.

9. Applicant admitted the position required a license as a registered nurse.

10. Applicant stated his physician had determined he could safely practice and Applicant was instructed to send a copy of the letter.

11. [REDACTED]

12. [REDACTED]

13. The statement makes no mention of the type of work the doctor believes Applicant is able to do part-time and does not indicate the doctor's area of expertise. Moreover, it is dated six months prior to the reinstatement application, and ten months prior to the date it was presented to the Board, and Applicant has not provided further information based on continued monitoring and evaluation.

14. The fact that Applicant provided the statement nearly three months after it was requested supports the supervisor's opinion that Applicant is able to understand what needs to be done but is not able to follow through.

15. Attached to the application are three certificates of training, all for courses completed in 2005.

CONCLUSIONS OF LAW

16. "The board shall examine, license and renew licenses of duly qualified applicants and conduct hearings upon charges for limitation, suspension or revocation of a license or approval of professional and practical nursing and mental health technician programs and may limit, deny, suspend or revoke for proper legal cause, licenses or approval of professional and practical nursing and mental health technician programs, as hereinafter provided." K.S.A. 74-1106(c)(4).

17. The Board 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 upon making any of the findings listed in K.S.A. 65-1120(a).

18. The Board has jurisdiction over Applicant and the subject matter of this action.

19. "Any applicant whose Kansas license has lapsed may, within five years of its expiration date, reinstate that license by submitting satisfactory proof that the applicant has obtained 30 contact hours of approved continuing nursing education within the preceding two-year period." K.A.R. 60-3-105(a).

20. The CNE certificates included with Applicant's reinstatement application are not satisfactory proof that the applicant has obtained the required CNE within two years prior to the application. Therefore, Applicant does not meet the minimum requirements for reinstatement.

21. The Board may deny Applicant's application for reinstatement based on K.S.A. 65-1120(a)(3), Professional Incompetency, as defined by K.S.A. 65-1120(e)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

22. The Board may deny Applicant's application for reinstatement based on K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(v), practicing without a license or while the license has lapsed.


23. K.S.A. 77-511(a)(2)(A) and 77-537 of the Kansas Administrative Procedure Act authorize 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, after investigation, that the allegations will be supported to the applicable standard of proof.

24. The role of the Kansas State Board of Nursing is to protect citizens of Kansas and the consumers of health care services, and the proposed action furthers that purpose by requiring a current showing that Applicant has sufficiently recovered from a serious illness and disability to practice safely and reliably. Nothing in this order should be construed as a finding of willful misconduct or permanent disqualification.

IT IS THEREFORE ORDERED BY THE KANSAS STATE BOARD OF NURSING THAT Applicant's reinstatement application to practice nursing in the state of Kansas is denied.

Notice of Right to Hearing: 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.



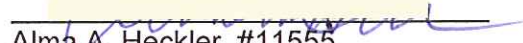
Jafnet Jacobs/LPN
Investigative Committee, Chair
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

I certify that on the 30th day of June, 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:

Larry M. Freyberger
12625 Oakmont Drive
Platte City, MO 64079




Alma A. Heckler, #11555
Assistant Attorney General