

BEFORE THE KANSAS STATE BOARD OF NURSING

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

**IN THE MATTER OF
ROY E. HELMUTH
License No. 14-98121-062**

FILED
AUG 9 2010
KSBPN

**Case No. 10-005-0
OAH No. 10BN0093**

AMENDED PROPOSED DEFAULT ORDER TO REVOKE LICENSE

NOW ON THIS 27th day of August, 2010, petitioner, the Kansas State Board of Nursing, appears by disciplinary counsel, Alma A. Heckler, for a Hearing on the Petition. Respondent does not appear.

Wherefore, the Presiding Officer finds as follows:

1. Respondent is licensed to practice nursing in Kansas through 6/30/2010. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent was sent a copy of the petition and notice of this hearing to respondent's last known address and service is proper. Respondent does not appear.
3. Petitioner moves for issuance of a proposed default order revoking respondent's license. The petitioner's request is granted by default pursuant to K.S.A. 77-520.
4. The petition is hereby granted and incorporated into this order as if set forth herein. Respondent violated the Nurse Practice Act as alleged in the petition.
5. Per Petitioner's request, Respondent's license to practice nursing is revoked. Respondent may not practice nursing in Kansas.
6. Costs of the action of \$70 are assessed to respondent to be paid to the board by cash or money order within 30 days of the effective date of this order.
7. Respondent shall immediately forward his or her original Kansas registered nurse license to the Kansas State Board of Nursing.

8. This Proposed Default Order shall become effective seven days after service or ten days after mailing of this order unless the Respondent files a written motion with the Board stating why the Proposed Default Order should be vacated and the order is then vacated.

9. If this Proposed Default Order becomes effective, the Respondent's request for administrative hearing is dismissed pursuant to K.S.A. 77-520(d).

10. Disciplinary counsel shall mail a copy of this proposed default order to respondent's last known address.

IT IS SO ORDERED.



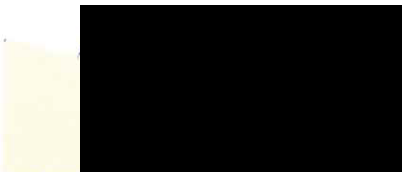
Sandra L. Sharon, Presiding Officer
Office of Administrative Hearings
1020 S Kansas Ave.
Topeka, KS 66612-1327

NOTICE

Pursuant to K.S.A. 77-527, either party may request a review of this order by filing a petition for review with the Kansas State Board of Nursing. The petition for review shall state its basis. A petition for review must be filed within 7 days from the date this order becomes effective. 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: State Board of Nursing - Legal Division, Landon State Office Building, 900 SW Jackson, Ste 1051, Topeka, KS 66612-1230.

Pursuant to K.S.A. 77-530, if neither party requests a review by the Kansas State Board of Nursing, then this initial order becomes final and binding on both parties on the 30th day following its service.

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.

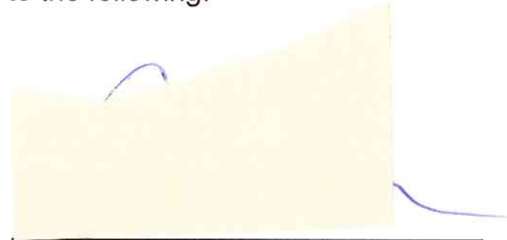


Alma A. Heckler, #11555
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson, Suite #1051
Topeka, KS 66612-1230
785-296-4325

CERTIFICATE OF SERVICE

I certify that on the 13th day of August, 2010, the foregoing copy of the Proposed Default Order Revoking License was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Roy E. Helmuth
11304 Myrtle Ave.
Kansas City, MO 64137



Alma A. Heckler
Assistant Attorney General

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ROY E. HELMUTH
License No. 14-98121-062

Case No. 10-005-0
OAH No. 10BN0093

PETITION

COMES NOW the petitioner, the Kansas State Board of Nursing, by and through Assistant Attorney General assigned to the Board, Alma A. Heckler, and for its cause of action states that:

1. Respondent, Roy E. Helmuth, is licensed to practice nursing in Kansas through 6/30/2010. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 11304 Myrtle Ave., Kansas City, MO 64137.
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. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 et seq. to examine, license and renew license for duly qualified applicants and may limit, deny, suspend or revoke a license or authorization to practice nursing, may issue a public or private censure and levy administrative fines consistent with K.S.A. 74-1110, if a violation of K.S.A. 65-1120(a) is established.

FACTS COMMON TO ALL COUNTS

5. The facts below are common to all counts:
 - (a) By order dated May 16, 2008, and served by certified mail on May 19, 2008, to Respondent's address of record, the Alabama Board of Nursing revoked Respondent's license by default. The Alabama Board found that Respondent had withdrawn scheduled

medications without a physician's order, documented administration of scheduled medications not ordered for patients, failed to account for scheduled medications, withdrawn scheduled medications for patients whose care was provided by other nurses, withdrawn scheduled medications for patients who had already left the department, and documented administration of scheduled medications that were not documented as having been withdrawn.

(b) By Final Order dated April 16, 2009, the Florida Department of Health permanently revoked Respondent's nursing license as a result of the Alabama license revocation. Parties to the Florida action, including the Respondent, previously signed and endorsed a settlement agreement permanently revoking Respondent's nursing license in Florida on November 3, 2008.

(c) On or about December 12, 2008, Respondent signed an affidavit swearing to the truth of his statements on an application for licensure as a registered nurse in Missouri. Section III of the Missouri application lists active licenses in Florida, Georgia, Kansas, and Indiana.

(d) Question 16, Section IV, of the Missouri application asks, "Have you ever been issued a professional license, certification, registration, or permit by any state, United States, territory, province, or foreign country other than the licenses listed above?" Respondent checked "no."

(e) Question 18 of the Missouri application asks, "Have you ever had any professional license, certification, registration, or permit revoked, suspended, placed on probation, or otherwise subject to any type of disciplinary action?" Respondent checked "no."

(f) Question 19 of the Missouri application asks, "Are you presently being investigated or is any disciplinary action pending against any professional license, certification, registration, or permit you hold?" Respondent checked "no."

(g) Question 24 of the Missouri application asks, "Do you currently, or did you within the past five years, use any prescription drug, controlled substance, illegal chemical substance, or

alcohol, to the point where your ability to practice as a registered professional nurse would be affected?" Respondent checked "no."

(h) Respondent knew no later than May 2008 his Alabama license had been revoked and that action was pending against his Florida license at the time he submitted the application for a Missouri nursing license in December 2008.

(i) On an application for employment with Shawnee Mission Medical Center, dated July 27, 2009, Respondent denied having had a license, registration, or certificate investigated, revoked, suspended, limited, or subject to discipline. The Alabama and Florida actions were final and known to Respondent at the time of the application to for employment with Shawnee Mission Medical Center.

(j) By letter to the Board dated February 23, 2010, Respondent admitted to deceiving Shawnee Mission Medical Center by not disclosing actions against his Florida and Alabama licenses and to not disclosing the actions on his application for a Missouri nursing license. In the same letter, Respondent admitted to "poor judgment in Alabama and Florida due to taking prescription based Ultram and Ambien from which [he] realized was affecting [his] ability [to] document all meds including narcotics."

(k) Respondent made false statements to both the Missouri Board and the Kansas Board. Respondent renewed his Kansas license in June, 2008 and failed to report the revocation of his Alabama nursing license and the pending action against his nursing license in Florida.

VIOLATIONS

6. Respondent has violated the Kansas Nurse Practice Act as follows:

Count 1: K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n);

Count 2: K.S.A. 65 1120(a)(4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol;

Count 3: K.S.A. 65 – 1120(a)(6), unprofessional conduct by inaccurately recording, falsifying, or altering any record of a patient or agency or of the board; K.A.R. 60-3-110(d).

Count 4: K.S.A. 65-1120(a)(8), to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country.

WHEREFORE, petitioner requests a finding that the respondent has violated the Nurse Practice Act, that respondent's license to practice nursing in Kansas be revoked, and that costs of this action be assessed to the respondent in the amount of \$70.00.

Respectfully submitted,

Stephen N. Six
Kansas Attorney General

By:

Alma A. Heckler, #11555
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

CERTIFICATE OF SERVICE

On the 5th day of June 2010, I deposited a copy of this PETITION with the United States Postal Service, postage pre-paid, addressed to:

Roy E. Helmuth
11304 Myrtle ave.
Kansas City, MO 64137

Sandra L. Sharon
Presiding Officer
Office of Administrative Hearings
1020 S Kansas Ave.
Topeka, KS 66612-1327



Alma A. Heckler, Disciplinary Counsel
Kansas Board of Nursing