

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

JAN 26 2016

IN THE MATTER OF

Linda Michelle Wary

KSBN

License No. 14-98772-092/Reinstatement

Case No. 15-284-6

SUMMARY ORDER

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

1. Applicant, Linda Michelle Wary, had her license revoked on July 24, 2014. Applicant has filed an application for reinstatement. The Board has jurisdiction over the applicant and the subject matter of this action.
2. Applicant's address of record is 2305 S. Joplin Street, Apt. 19, Pittsburg KS 66762.
3. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106(c)(4), K.S.A. 65-1117(a) and K.S.A. 65-1120(a) to examine, license, renew or reinstate licenses and may limit, deny, suspend or revoke a license or authorization to practice nursing, and may issue a public or private censure and levy administrative fines consistent with K.S.A. 74-1110.
4. The Kansas State Board of Nursing may deny a license as a registered nurse if the applicant is deficient in qualification, or in the quality of education, or if there are disqualifying factors under K.S.A. 65-1120 and amendments thereto. K.S.A. 65-1115 (a) & (b) & (c)(1).
5. Among the disqualifying factors enumerated in K.S.A. 65-1120 is unprofessional conduct as defined by the rules and regulations of the Kansas State Board of Nursing. K.S.A. 65-1120(a)(6). Unprofessional conduct is defined by K.A.R. 60-3-110.
6. A license reinstatement requires the applicant to be competent and qualified to act as a nurse. K.S.A. 65-1117(b).

7. After an investigation, the Board's investigative committee found reasonable grounds to believe that the respondent is neither competent nor qualified to practice, is guilty of unprofessional conduct, and referred this matter for further proceedings.

8. 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.

STATEMENT OF FACTS

9.

(a) In KSBN case no. 13-1289-4, the Board issued a Summary Order on October 16, 2014, revoking applicant's license, and finding:

The Board referred the licensee on 6/11/2012 to the Kansas Nurse Assistance Program (KNAP) after the Board received a report that she tested positive for alcohol when she came to work at the Galena Nursing and Rehabilitation facility. Licensee allowed her license to lapse in September of 2012. Licensee filed an application to reinstate her license, the license was granted and she was referred back to KNAP in December of 2012. Licensee signed a contract with KNAP.

Licensee tested positive for alcohol and KNAP determined she had relapsed. Licensee was directed to quit working and get an updated evaluation. She was offered a three (3) year contract. Licensee did not respond to the letters dated 1/23/2014 and 2/7/2014 from KNAP. Her KNAP case was closed.

Licensee did not respond to letters from the Board. Licensee is not safe to practice nursing without monitoring by KNAP.

(b) Applicant filed for reinstatement in early 2015, and was re-referred to KNAP .

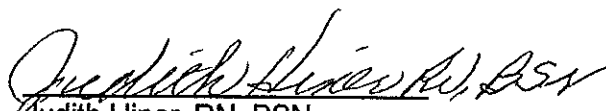
(c) Applicant was terminated by KNAP on or about 12-15-2015 for non-compliance.

10. The evidence before the Board shows that the applicant is neither competent nor qualified to practice nursing, that she has committed acts of unprofessional conduct, and that the safety of the citizens of Kansas is protected by denying the application for reinstatement.

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

- 1. Applicant's application for reinstatement is denied.**
- 2. Licensee shall not practice nursing in the state of Kansas.**

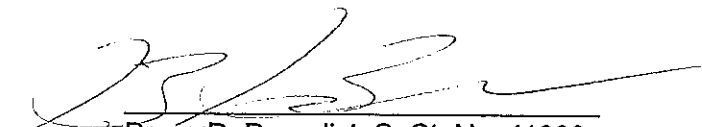
Pursuant to K.S.A. 77-537, this decision, which is called a Summary Order, is subject to your request for a hearing. If you desire a hearing, you must submit or direct a written request for hearing to: Kansas State Board of Nursing, Legal Division, 900 SW Jackson, Suite 1051, Topeka, Kansas 66612-1230, (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 26th 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:

Linda Wary
2305 S. Joplin Street
Apt. 19
Pittsburg KS 66762


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