

**BEFORE THE KANSAS STATE BOARD OF NURSING**  
Landon State Office Building, 900 S.W. Jackson #1051  
Topeka, Kansas 66612-1230

**FILED**  
**DEC 9 2010**  
**KSBN**

**IN THE MATTER OF**  
**MARTINA GITAU**  
License No. unknown

Case No. 10-1422-5

**SUMMARY ORDER**

Now this 9<sup>th</sup> day of December, 2010, 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 initial RN application of Martina Gitau by way of Summary Order as provided by K.S.A. 77-537.

**FINDINGS OF FACT**

1. Applicant submitted an initial RN application to practice nursing in the state of Kansas. The Board has jurisdiction over the Applicant and the subject matter of this action.
2. Applicant's address of record is 4810 N. Canterbury Court, Park City Kansas 67219.
3. On or about September 18, 2010, the Board received Applicant's initial RN application to practice nursing in the state of Kansas.
4. Review of the Application and other information gathered by the Board revealed the following information upon which this action is based.
5. On or about 11/16/2010, Applicant took the NCLEX-RN exam.
6. On or about 11/16/2010, prior the starting the NCLEX-RN exam, Applicant provided her electronic signature to verify that she read and understood the NCLEX examination candidate rules.
7. Within the NCLEX examination candidate rules, it states, "Examples of prohibited, irregular behavior include, but are not limited to, the following: You may not bring any educational test preparation or study materials to the testing center; You may not access any such study material or seek help from any other party in answering items (in person, by phone, text, or by email) during your examination (including breaks)."
8. On or about 11/16/2010, at approximately 8:55am during the NCLEX-RN exam, Applicant was observed by a testing administrator taking an unscheduled break and referring to a Taber's medical dictionary at a locker.
9. On or about 11/17/2010, the Board was contacted by National Council of State Boards of Nursing (NCSBN) and provided with a description of the above-referenced incident as

reported by the testing administrator. Subsequently, the Board opened an investigative case, #10-1422-5.

10. On or about 11/23/2010, during a phone interview with a Board investigator, Kathleen D. Chalkley, Applicant stated that she took a Taber's medical dictionary with her to the testing site on 11/16/2010 and looked through it before the exam began and within her first hour of testing during an unscheduled break. Applicant also stated that she was given lists of testing site prohibited items when she signed in via electronic signature, but she did not closely read the lists before signing the electronic pad.

### CONCLUSIONS OF LAW

1. 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. The above fact findings establish evidence that the applicant violated the following provisions of the Nurse Practice Act:
  - a. K.S.A. 65-1120(a)(1), to be guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing.
2. Applicant's conduct described herein violates the Kansas Nurse Practice Act.
3. K.S.A. 77-511(a)(2)(A) and K.S.A. 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 and 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.
4. The role of the Kansas State Board of Nursing is to protect citizens of Kansas.

### POLICY STATEMENT


1. Truthfulness is a hallmark of the nursing profession and is required to ensure accurate communication of all nursing actions.

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

1. **Applicant's initial RN application to practice nursing in the state of Kansas is denied.**

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.



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

**CERTIFICATE OF SERVICE**

I certify that on the 9<sup>th</sup> day of December, 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:



Danielle Sanger #24587  
Assistant Attorney General