

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED
#127
MAR 30 2012 *per*

**IN THE MATTER OF
TAMMY REED**

KSBN

License No. Endorsement Applicant

Case No. 11-1428-0

SUMMARY ORDER

Now this 30th day of March 2012, 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 deny the endorsement application filed Tammy Reed filed on October 20, 2011, as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. (a) Applicant filed an endorsement application on or about October 20, 2011. Applicant previously filed an endorsement application on or about June 16, 2009 and the Applicant's application was denied by Summary Order of the Board, filed September 2, 2009. The Board has jurisdiction over the Licensee and the subject matter of this action.

(b) Applicant's address of record is Box 933, 100 W 13th, Ashland, Kansas, 67831.

(c) Applicant's 6/16/2009 endorsement application was denied by the 6/16/2009 Summary Order for the following reasons:

On or about 12/23/2008, Applicant was convicted of Aggravated Possession Of Drugs (Methamphetamine), a felony, in the Court of Common Pleas of Williams County, Ohio, case number 08CR236.

On or about 1/28/2009, As a result of the 12/23/2008 conviction, Applicant's Ohio driver's license was suspended for a period of six months.

On or about April of 2009, Applicant's probation in case number 08CR236 was transferred to the state of Kansas for supervision. Applicant has not completed the period of probation ordered in case number 08CR236.

(d) Applicant was found to have violated the following provisions of the Kansas Nurse Practice Act:

K.S.A. 65-1120(a)(2), to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense without establishing sufficient rehabilitation to warrant the public trust.

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.

(e) Since her application was denied by the Kansas Board, applicant was disciplined by the Indiana Board of Nursing due to her felony drug conviction in Ohio. Certified documents from the Indiana Professional Licensing Agency indicate the applicant was placed on indefinite suspension by the Indiana Board in September 2011 and directed to complete a recovery monitoring agreement with the Indiana State Nurses Assistance Program (ISNAP) and to keep the Indiana Board apprised of her home address and contact information, and employment .

(f) Applicant admitted on her Kansas endorsement application she has not practiced nursing for the last five (5) years. She admitted to the Indiana Board, she has not practiced nursing since 2005. She was licensed in the state of Indiana since 1994. She currently lives in Kansas.

(g) Applicant provided a copy of a Kansas Client Screening Placement, Screening Instrument completed in September, 2011 and notes from outpatient services she participated in October of 2011, with her application. The reports indicate that the respondent continued to smoke marijuana and smoked it two days prior to her evaluation on 9/14/2011.

(h) Applicant cannot not demonstrate she is currently safe to a practice. Respondent failed to report her discipline in Indiana on her October 20, 2011 endorsement application.

(i) Per Vakas v. Kansas State Board of Healing Arts, 248 Kan. 589 (1991), factors to be considered in determining whether a license should be granted after a disciplinary finding has been made are the following:

- The present moral fitness of the petitioner;
- The demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought the profession;
- The extent of petitioner's rehabilitation;
- The nature and seriousness of the original misconduct;
- The conduct subsequent to discipline;
- The time elapsed since the original discipline;
- The petitioner's character, maturity, and experience at the time of the original revocation;
- The petitioner's present competence in medical skills.

(j) Applicant presents no evidence to demonstrate why her endorsement application should be granted at this time.

CONCLUSIONS OF LAW

2. 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)(2), to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense without establishing sufficient rehabilitation to warrant the public trust.

(b) 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.

(c) K.S.A. 65-1120(a)(1), to be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing.

(d) K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol.

3. Applicant's conduct described herein violates the Kansas Nurse Practice Act.

4. 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.

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

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

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

3. Applicant 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.

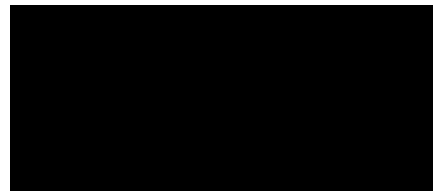


Judith Hiner, RN, BSN
Investigative Committee, Chair
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

I certify that on the 30th day of March, 2012, 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:

Tammy Reed
Box 933, 100 W. 13th
Ashland, Kansas 67831



Alma A. Heckler, #11555
Assistant Attorney General