

BEFORE THE KANSAS STATE BOARD OF NURSING

FILED
#189
MAY 10 2012
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IN THE MATTER OF
Major A. Wolde
License No. Initial Application

Case No. 11-491-7
OAH No. 12BN0067

KSBN

INITIAL ORDER

Now on this 11th day of April 2012, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing (Board). Sandra L. Sharon was duly appointed as Presiding Officer pursuant to K.S.A. 77-514. The Petitioner, the Kansas State Board of Nursing appears by Assistant Attorney General Alma A. Heckler, Disciplinary Counsel for the Board. The Respondent, Major A. Wolde, appears in person.

Findings of Fact

1. The respondent was convicted of the crime of Sexual Battery, a Class A misdemeanor in the District Court of Johnson County on April 1, 2011.
2. The circumstances surrounding this conviction are that while employed as a Certified Nurse Aide at Brighton Gardens, Prairie Village, Johnson County Kansas, on May 6, 2010, the respondent sexually battered a 20 year old female, who is partially blind, and was on a work program assignment from the School of the Blind.
3. The respondent filed an application for a license to practice nursing in the State of Kansas with the Board on April 18, 2011. The Board denied the application. The basis of the denial is that the Board has deemed the respondent to have committed a professional act of incompetency.

Applicable Law

1. The Board has the authority to deny, revoke, limit or suspend any license to practice nursing or application for a license to practice nursing in the State of Kansas. K.S.A. 65-1120(a)(3).
2. Pursuant to K.S.A. 65-1120(e)(3) professional incompetency includes a pattern of practice or behavior which demonstrates incapacity or incompetence to practice nursing.
3. To have committed a professional act of incompetency as defined in K.S.A. 65-1120(e) is cause for denial of an application to practice nursing in the State of Kansas. K.S.A. 65-1120(e)(3).

Discussion

1. It is the Board's position that the respondent has committed an act of professional incompetency through behavior which demonstrates incapacity or incompetence to practice nursing by committing sexual battery on a vulnerable adult while at his employment.
2. While the respondent's actions do not address his knowledge and skill for nursing, they do raise concern whether the respondent has the capacity or judgment to behave appropriately in a nursing setting.

Conclusion

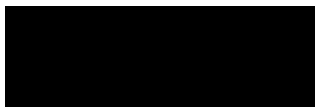
1. The capacity to perform as a nurse can only be built upon the character and good judgment of the individual. To be guilty of sexual battery while in the work place demonstrates a behavior which is paramount to being unable to trust such an individual to be placed in a nursing setting.
2. The board's petition to deny the respondent's application to practice nursing in the State of Kansas is affirmed.
3. Cost of this action shall be assessed to the respondent in the amount of \$70.00 pursuant to K.S.A. 65-1120(d).

Appeal Rights and Other Administrative Relief

Pursuant to K.S.A. 77-527, either party may request a review of this initial order by filing a petition for review with the Kansas State Board of Nursing. A petition for review must be filed within 15 days from the date this initial order was served. 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: Mary Blubaugh, Executive Director, Board of Nursing, Landon State Office Building, 900 SW Jackson, Suite 1051, Topeka, KS 66612-1230.

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.

Pursuant to K.S.A. 77-530, if a request for review is not made in the time and manner stated above, this initial order shall become effective as a final order 30 days after service.



Sandra L. Sharon
Administrative Law Judge/Presiding Officer
Office of Administrative Hearings
1020 S. Kansas Ave.
Topeka, KS 66612
Telephone: 785-296-2433

CERTIFICATE OF SERVICE

On May 7th, 2012, I mailed this original document through State Building
Mail to _____

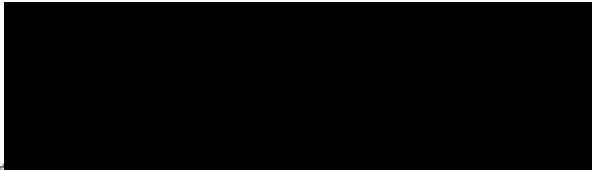
Mary Blubaugh
Executive Administrator
Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612
Telephone: 785-296-4325

and a copy of this document through State Building Mail to:

Alma Heckler
Assistant Attorney General
Disciplinary Counsel for the Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612
Telephone: 785-296-4325

and a copy of this document through first class mail to:

Major A. Wolde
10604 West 75th Terrace Apt. 201
Overland Park, KS 66214


Staff Person /
Office of Administrative Hearings