

FILED

OCT 07 2016

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BEFORE THE KANSAS STATE BOARD OF NURSING

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

**IN THE MATTER OF
ALANA M. DELGADO**

EFFECTIVE AS A
FINAL ORDER
DATE: 10/25/16

**License No. Reinstatement application
Case No. 15-1161-3**

SUMMARY ORDER

Now on this 7TH day of October, 2016, this matter comes before the Kansas State Board of Nursing (Board) pursuant to authority granted to the Board by K.S.A. 65-1106 and K.S.A. 65-1120, to find facts and take disciplinary action against the Applicant, Alana M. Delgado, by way of Summary Order pursuant to K.S.A. 77-537. Upon review, the following findings of fact, conclusions of law and order are made for and on behalf of the Board:

FINDING OF FACTS

1. Applicant's address of record is 416 E. 12th Unit B, Hays, KS 67601.
2. Applicant submitted an application to be reinstated as an RN in Kansas on July 11, 2016.
3. On July 11, 2016 Reinstatement Application, Applicant was asked "Is an investigation and/or disciplinary action pending against any license, certification or registration (nursing or otherwise)?, Applicant answered "No".
4. Applicant let her Kansas RN license expire on May 31, 2016.
5. On April 8, 2016, the Board sent Applicant a letter stating that the Investigative Committee reviewed KSBN case #15-1161-3 and that her case was being transferred to Disciplinary Counsel.
6. On or about July 19, 2015, while Applicant was on duty at KVC Behavioral Healthcare, Inc, a client attempted to bite nurse and Applicant took two fistfuls of clients hair and pulled her, forcing client's head to the floor.

7. In addition to pulling client's hair, Applicant held client's mouth shut while client was manually breathing.
8. Applicant was repeatedly told by staff to disengage with the client, which Applicant ignored.
9. Staff described Applicant's contact as unnecessary.
10. One June 21, 2016, the Board referred the Applicant to the Kansas Nurse's Assistance Program to be evaluated for chemical dependence, mental health, and anger issues for a determination of safety to practice.
11. Applicant was offered a 1-year KNAP agreement.
12. Applicant sent an email to KNAP stating she would not be signing the agreement.
13. KNAP closed Applicant's case file and sent her notification of closure on August 12, 2016.

APPLICABLE LAW

14. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106(c)(4) 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.
15. 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).
16. The Board may deny any license or authorization to practice if applicant is guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing. K.S.A. 65-1120(a)(1).
17. The Board may deny any license or authorization to practice if applicant is guilty of unprofessional conduct as defined by rules and regulations of the board, namely K.A.R. 60-3-

110(d) inaccurately recording, falsifying, or altering any record of a patient or agency or of the board. K.S.A. 65-1120(a)(6).

18. The Board may deny any license or authorization to practice if applicant is guilty of unprofessional conduct as defined by rules and regulations of the board, namely K.A.R. 60-3-110(e) physical abuse, which shall be defined as any act or failure to act performed intentionally or carelessly that causes or is likely to cause harm to a patient. This term may include any of the following: (1) The unreasonable use of any physical restraint, isolation, or medication that harms or is likely to harm a patient; (2) the unreasonable use of any physical or chemical restraint, medication, or isolation as punishment, for convenience, in conflict with a physician's order or a policy and procedure of the facility or a state statute or regulation, or as a substitute for treatment, unless the use of the restraint, medication, or isolation is in furtherance of the health and safety of the patient; (3) any threat, menacing conduct, or other nontherapeutic or inappropriate action that results in or might reasonably be expected to result in a patient's unnecessary fear or emotional or mental distress; or (4) failure or omission to provide any goods or services that are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm. K.S.A. 65-1120(a)(6).

19. Board may deny any license or authorization to practice if applicant is guilty of unprofessional conduct as defined by rules and regulations of the board, namely K.A.R. 60-3-110(t) failing to complete the requirements of the impaired provider program of the board. K.S.A. 65-1120(a)(6).

CONCLUSIONS OF LAW

20. Applicant has violated the Kansas Nurse Practice Act as follows:

Count 1: 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;

Count 2: K.S.A. 65-1120(a)(6), to be guilty of unprofessional conduct as defined by rules and regulations of the board, namely K.A.R. 60-3-110(d) inaccurately recording, falsifying, or altering any record of a patient or agency or of the board;

Count 3: K.S.A. 65-1120(a)(6), to be guilty of unprofessional conduct as defined by rules and regulations of the board, namely K.A.R. 60-3-110(e) physical abuse, which shall be defined as any act or failure to act performed intentionally or carelessly that causes or is likely to cause harm to a patient. This term may include any of the following: (1) The unreasonable use of any physical restraint, isolation, or medication that harms or is likely to harm a patient; (2) the unreasonable use of any physical or chemical restraint, medication, or isolation as punishment, for convenience, in conflict with a physician's order or a policy and procedure of the facility or a state statute or regulation, or as a substitute for treatment, unless the use of the restraint, medication, or isolation is in furtherance of the health and safety of the patient; (3) any threat, menacing conduct, or other nontherapeutic or inappropriate action that results in or might reasonably be expected to result in a patient's unnecessary fear or emotional or mental distress; or (4) failure or omission to provide any goods or services that are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm;

The Board has jurisdiction over the Applicant and the subject matter of this action, and such proceeding is held in the public interest.

Count 4: K.S.A. 65-1120(a)(6), to be guilty of unprofessional conduct as defined by rules and regulations of the board, namely K.A.R. 60-3-110(t) failing to complete the requirements of the impaired provider program of the board;

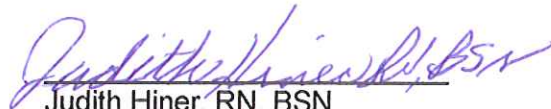
21. The Board finds that the above facts support numerous disqualifying factors under K.S.A. 65-1120 and the Applicant has not met the requirements for reinstatement of her license.

22. Based on the facts and circumstances set forth, the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of the law and the protection of the

public interest does not require the Board give notice and opportunity to participate to persons other than Applicant.

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

- 1. Applicant's endorsement application is denied.**
- 2. Applicant shall not practice nursing in the state of Kansas.**
- 3. Upon reinstating Applicant must submit to an evaluation through KNAP and provide documentation that Applicant is safe to practice.**



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

NOTICE OF RIGHTS

Pursuant to K.S.A. 77-537, this Summary Order shall become effective as a Final Order, without further notice, if no hearing is requested within fifteen (15) days of service. 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. 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.

CERTIFICATE OF SERVICE

I certify that on the 7TH day of October, 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:

Alana Delgado
416 E. 12th, Unit B
Hays, KS 67601



Legal Staff
Kansas State Board of Nursing

NOTICE

PLEASE TAKE NOTICE that this is a Final Order. A party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* A petition must be filed within 30 days following service of the Final Order. A copy of any petition for judicial review must be served upon Mary Blubaugh, Executive Administrator, Kansas State Board of Nursing, 900 SW Jackson, Suite 1051, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I certify that on the 14TH day of NOVEMBER, 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:

Alana Delgado
416 E. 12th, Unit B
Hays, KS 67601



Legal Staff
Kansas State Board of Nursing