

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

FILED
OCT 25 2016
KSBN

**IN THE MATTER OF
KELSEY MARIE KENNEDY**

OAH No. 17BN0008

**License No. 23-44102-122/RN Applicant
Case No. 14-2193-9 & 15-651-9**

NOTICE OF PROPOSED DEFAULT ORDER
AND
PROPOSED DEFAULT ORDER

This matter comes on for prehearing before the Kansas State Board of Nursing (Board/Petitioner). Pursuant to K.S.A. 77-514, Sandra L. Sharon was appointed Administrative Law Judge (ALJ)/Presiding Officer. The Board appears through Bryce D. Benedict, Disiplinary Counsel for the Board. The respondent, Kelsey Marie Kennedy, failed to appear. In consideration of this matter, a Proposed Default Order is entered against respondent.

The presiding ALJ finds as follows:

1. The respondent is licensed to practice nursing in Kansas.
2. The Petitioner, the Kansas State Board of Nursing Board, has jurisdiction over the respondent and the subject matter of this action.
3. On August 8, 2016, a Petition was filed by the Board seeking revocation of the respondent's nursing license and the respondent's RN application be denied. It was sent to her at her last known address and was not returned as undeliverable.
4. On August 10, 2016, a Notice of Prehearing Conference was sent to the respondent. The conference was scheduled for October 25, 2016 at 9:00 a.m. The notice was not returned as undeliverable.
5. On October 25, 2016, a prehearing conference was convened. The Board appeared by disciplinary counsel, Bryce D. Benedict. The respondent did not appear in person or by phone.
6. Pursuant to Kansas Statutes Annotated (K.S.A.) 77-520(a), "[i]f a party fails to attend or participate in a prehearing conference, hearing or other

stage of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order.”

7. The respondent is in default pursuant to K.S.A. 77-520.
8. This Proposed Default Order shall become effective and deemed an initial order, seven days after service or ten days after mailing of this order unless the respondent files a written motion stating why the Proposed Default Order should be vacated and the order is then vacated. A motion to vacate shall be mailed or personally delivered to: Kansas State Board of Nursing, Legal Division, Landon State Office Building, 900 SW Jackson, Ste. 1051, Topeka KS 66612-1230, with a copy to be mailed or personally delivered to: Sandra L. Sharon, Administrative Law Judge, Office of Administrative Hearings, 1020 S. Kansas Ave., Topeka, KS 66612-1327.
9. If this Proposed Default Order becomes effective, the allegations contained in the Petition will be deemed uncontroverted and the Petition will be granted and incorporated into this order as if fully set forth herein. The respondent's license to practice nursing will be revoked. The respondent will immediately forward his or her original Kansas nursing license to the Board.
10. In addition, costs of the action in the amount of \$100.00 will be assessed to the respondent to be paid to the Board by cashier's check or money order within 30 days of the effective date of this order.

The presiding ALJ, being well and duly advised in the premises, now enters this Proposed Default Order against the respondent. It shall take effect as specified in the above findings.

IT IS SO ORDERED.

Appeal Rights and Other Administrative Relief

Pursuant to K.S.A. 77-520, if the proposed default order becomes effective, it is deemed an initial order, as set forth above. Pursuant to K.S.A. 77-527, either party may request review of the initial order by filing a petition for review with the Kansas State Board of Nursing within 15 days from date the order is deemed an initial order. Failure to timely request review may preclude further judicial review. Petitions for review shall be mailed or personally delivered to: Kansas State Board of Nursing, Legal Division, Landon State Office Building, 900 SW Jackson, Ste. 1051, Topeka, KS 66612-1230.

If neither party requests review, the initial order becomes a final order and is binding on the 30th day following its mailing.

A party may seek judicial review of a final order by filing a petition for judicial review pursuant to K.S.A. 77-601, *et seq.* Reconsideration of a final order is not a prerequisite to judicial review. A copy of any petition for judicial review shall be served on Mary Blubaugh, Executive Administrator, Kansas State Board of Nursing, 900 SW Jackson, Suite 1051, Topeka, KS 66612-1230.



Sandra L. Sharon
Administrative Law Judge
Office of Administrative Hearings
1020 S. Kansas Ave.
Topeka, KS 66612-1327

CERTIFICATE OF SERVICE

On Oct. 25, 2016, 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:

Bryce D. Benedict
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:

Kelsey Kennedy
2151 Quail Road
Frankfort, KS 66427

Kelsey Kennedy
114 W. 8th
Frankfort, KS 66427

Kelsey Kennedy
c/o Valley Hope
1816 N. Second
Atchison, KS 66002



Staff Person
Office of Administrative Hearings

17BN0008

BEFORE THE KANSAS STATE BOARD OF NURSING
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IN THE MATTER OF
Kelsey Marie Kennedy

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AUG 11 2016

KSBN

PETITION

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. Respondent, Kelsy Kennedy, is licensed to practice practical nursing in Kansas.
2. Respondent filed an application to be licensed as a professional nurse.
3. The Board has jurisdiction over the respondent and the subject matter of this action.
4. Respondent's address of record is 2151 Quail Rd., Frankfort KS 66427, however her residence is 114 W. 8th, Frankfort KS 66427.
5. The role of the Kansas State Board of Nursing is to protect citizens of Kansas.
6. 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.
7. The Kansas State Board of Nursing may deny a license as a practical 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. 65-1116(b) & (c)(1).
8. 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).

9. 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.

10. After an investigation, the Board's investigative committee found reasonable grounds to believe that the applicant failed to meet the requirements to practice as a nurse in Kansas, and referred this matter for further proceedings.

FINDING OF FACTS

11. (a) On December 15, 2015 the licensee was re-referred to KNAP.

(b) The licensee had previously been terminated from the KNAP program on or about October 16, 2015.

(c) The licensee was terminated from the KNAP program for a second time on or about March 9, 2016 as she failed to complete the required substance abuse evaluation or to cooperate with KNAP.

(d) On or about July 26, 2016 the respondent was admitted into Valley Hope for inpatient treatment.

VIOLATIONS

12. Count 1: K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110, to be guilty of unprofessional conduct as defined by rules and regulations of the board; to wit: failing to complete the requirements of the impaired provider program of the Board.

Count 2: K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol.

Count 3: K.S.A. 65-1117(c)(1) failing to notify the Board in writing of either (a) a change in name or address within 30 days of the change.

WHEREFORE, petitioner that the Respondent's RN application be denied, that respondent's license be revoked, that she be fined \$100.00 for violation of K.S.A. 65-1117(c)(1), and that costs of this action be assessed to the respondent.

Respectfully submitted,

Derek Schmidt
Kansas Attorney General

By: 

Bryce D. Benedict, #11663
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

CERTIFICATE OF SERVICE

The undersigned certifies that he caused a copy of the above to be placed in the United States

Mail, postage prepaid, on the 5th day of August, 2016, addressed to:

Kelsey Kennedy
2151 Quail Rd.
Frankfort KS 66427

Kelsey Kennedy
114 W. 8th
Frankfort KS

Kelsey Kennedy
c/o Valley Hope
1816 N. Second
Atchison KS 66002


Bryce D. Benedict