

BEFORE THE KANSAS STATE BOARD OF NURSING

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

IN THE MATTER OF
ANDREA J. LUCIANO
License No. 23-030810-052

Case No. 04-345-5, 06-318-5

PROPOSED DEFAULT ORDER TO REVOKE LICENSE

NOW ON THIS 25th day of September, 2007, petitioner, the Kansas State Board of Nursing, appears by disciplinary counsel, Alma A. Heckler, for a Hearing on the Petition.

Respondent does not appear.

Wherefore, the Presiding Officer finds as follows:

1. Respondent is licensed to practice nursing in Kansas through 5/31/2008. The Kansas State Board of Nursing has jurisdiction over the licensee and the subject matter of this action.
2. Petitioner sent a copy of the petition and notice of this hearing to respondent's last known address and service is proper.
3. Petitioner moves for issuance of a proposed default order revoking respondent's license. The petitioner's request is granted by default.
4. The petition is hereby granted and incorporated into this order as if set forth herein. Respondent violated the Nurse Practice Act as alleged in the petition.
5. Per petitioner's request, respondent's license to practice nursing is revoked. Respondent may not practice nursing in Kansas. Respondent is to mail the license card to the Kansas State Board of Nursing office immediately.
6. Costs of the action of \$70 are assessed to respondent to be paid to the board by cash or money order within 30 days of the effective date of this order.
7. Respondent shall immediately forward his or her original Kansas licensed practical nurse license to the Kansas State Board of Nursing.
8. Disciplinary counsel shall mail a copy of this proposed default order to respondent's last known address.

IT IS SO ORDERED.

[Redacted]

Sandra L. Sharon, Presiding Officer

NOTICE

This is a proposed default order pursuant to K.S.A. 77-520. This order becomes effective if respondent does not file a written motion requesting that this order be vacated with the board within seven days after the day this order is mailed. If a motion is timely filed, then a hearing will be set and notice given to respondent to appear. Another order will then be issued either vacating or affirming this order. The written motion is to be filed at:

State Board of Nursing - Legal Division
Landon State Office Building
900 SW Jackson, Ste 1051
Topeka, KS 66612-1230

[Redacted Signature]

Alma A. Heckler, #11555
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson, Suite #1051
Topeka, KS 66612-1230
785-296-4325

CERTIFICATE OF SERVICE

I certify that on the 25th day of September, 2007, the foregoing copy of the Proposed Default Order Revoking License was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Andrea J. Luciano
1516 W. MacArthur
Wichita, 67217

[Redacted Signature]

Alma A. Heckler
Assistant Attorney General

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License No. 23-030810-052

Case No. 04-345-5, 06-318-5

PETITION

COMES NOW the petitioner, the Kansas State Board of Nursing, by and through Assistant Attorney General assigned to the Board, Alma A. Heckler, and for its cause of action states that:

1. Respondent is licensed to practice nursing in Kansas through 5/31/2008. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 1516 W. MacArthur, Wichita, KS 67217.
3. After an investigation, the Board's investigative committee found reasonable grounds to believe that the respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1120, and referred this matter for further proceedings.
4. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 et seq. to examine, license and renew license for duly qualified applicants and may limit, deny, suspend or revoke a license or authorization to practice nursing, may issue a public or private censure and levy administrative fines consistent with K.S.A. 74-1110, if a violation of K.S.A. 65-1120(a) is established.

FACTS COMMON TO ALL COUNTS

5. The facts below are common to all counts:
 - (a) Respondent reported on her May 8, 2006 renewal application, Item #10, that she had been on diversion for Driving Under the Influence (DUI) in 1997. She further noted on the application " No KSBN Case Number- Not conviction but charge".
 - (b) In KSBN Case 04-345-5 she was disciplined for her failure to report the following:
the diversion she received in the DUI case had been terminated and she was convicted of the

DUI in Case NO. 97 TM 20420 and was also found guilty of violations of the restrictions placed on her driver's license in case #98 TM 19782, by the diversion in 97 TM 20420. The convictions occurred in Wichita.

(c) On or about 5/26/2004, the respondent promised to accurately report her convictions on all future applications in a letter sent to the investigator, Kathy Chalkley. Respondent stated any failure to report the convictions was simply inadvertance or an honest mistake on her part. The letter is contained in the investigative file. The respondent was required to complete two (2) hours on the Kansas Nurse Practice Act. She did complete those hours and the case was inactivated.

(d) The respondent has yet again failed to report her convictions and states she does not have any convictions, because no charges were ever filed. In light of the prior history in KSBN Case 04-345-5, and the cautions to accurately report she received in that case and her promise to accurately report any and all past violations, the respondent's failure to report yet again on her application, should be found to be intentional.

(e) The respondent also failed to provide proof of the completion of a Substance Abuse CNE. The respondent claimed on her application of May 8, 2006, the course was worth 20 hours but the provider verified the course as offered was only good for 10 hours. The respondent did complete the necessary 30 hours for re-licensure but has not provided the additional certificates to the board to verify attendance and the number of hours of CNE for the Substance Abuse CNE as requested.

VIOLATIONS

6. 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)(3), Professional Incompetency by K.S.A. 65-1120(e)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

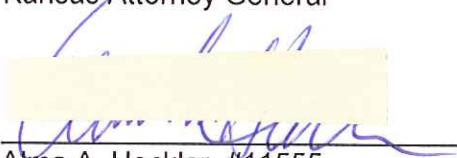
Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board.

WHEREFORE, petitioner requests a finding that the respondent has violated the Nurse Practice Act, that respondent's license to practice nursing in Kansas be revoked, and that costs of this action be assessed to the respondent in the amount of \$70.00.

Respectfully submitted,

Paul Morrison
Kansas Attorney General

By:


Alma A. Heckler, #11555
Assistant Attorney General