

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

FILED

SEP 11 2013

KSBN

IN THE MATTER OF
HEATHER G. SMITH
License No. 23-25562-072
Case No: 12-2172-3

SUMMARY ORDER

Now this 11th day of September, 2013, 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 find facts and take disciplinary action against the licensed practical nurse license of Heather G. Smith, (Licensee) by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1.
 - a. Licensee is licensed to practice nursing in the state of Kansas as a licensed practical nurse (LPN) through 7/31/2014. The Board has jurisdiction over the Licensee and the subject matter of this action.
 - b. Licensee's address of record is 322 N. 2nd, Stockton, Kansas 67669.
 - c. Licensee was employed by Rooks County Health Center from 7/9/2010 to 10/24/2012 as an LPN.
 - d. Staff of Rooks County Health Center began noticing discrepancies in the amount of Nexium 40 mg., a prescription only drug, stored in the medical/surgical Omnicell. Reports generated from the Omnicell machine indicated there was more Nexium stored in the machine than the actual count. The machines are stocked by the pharmacy staff and nurses must record any drugs removed from the system. The machines are monitored daily by the pharmacist.
 - e. Staff noted that inconsistencies in the actual amount of Nexium in the Omnicell machines and the amounts listed and restocked by pharmacy staff most often occurred when the Licensee worked.
 - f. Staff decided to install a camera to record Omnicell medication withdrawal at the nursing station. A review of the tapes showed the Licensee removed Nexium but a check of patient records showed that none of Licensee's assigned patients were to receive Nexium that day. Furthermore, the camera tapes showed the Licensee removing Omeprazole 20 mg. capsules and again none of her patients were supposed to receive the drug.
 - g. Pharmacy staff confirmed a box of 100 Nexium 40 mg. costs \$425.66 and only 51 tablets were billed out before the box had to be replaced. Capsules in the amount of \$208.57 were unaccounted for and not billed.

- h. Licensee's employment with Rooks County Health Center was terminated on 10/24/2012 due to the theft and failure to follow facility policy and procedure.
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)(3), to have committed an act of professional incompetency as defined by subsection (e); (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.
- (b) K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol;
- (c) K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n);
3. Licensee'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. Licensee's license is revoked.**
- 2. Licensee shall not practice nursing in the state of Kansas.**
- 3. Licensee shall pay \$70.00 costs of this action to the Board within thirty (30) days of the effective day of this Order.**

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

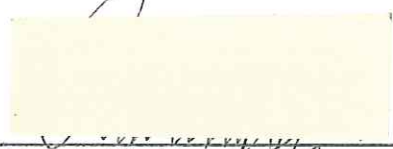
order, without further notice, upon the expiration of the time for requesting a hearing. If a hearing is requested, the prior issuance of a summary order shall not affect the burden of proof. Pursuant to K.S.A. 77-531, if the Summary Order is served by mail, three days are added to the time limits set out above.

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

CERTIFICATE OF SERVICE

I certify that on the 11th day of September, 2013, 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:

Heather G. Smith
322 N. 2nd
Stockton, Kansas 67669.


Alma A. Heckler, #11565
Assistant Attorney General