

BEFORE THE KANSAS STATE BOARD OF NURSING

FILED  
SEP 12 2013  
KSBN

IN THE MATTER OF  
LEIGH LENGACHER  
A.K.A. BRANSCOM  
License No. 23-26412-011

Case No. 12-1948-3

OAH No. 13BN0148

**INITIAL ORDER**

Now on this 15<sup>th</sup> day of August 2013, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing (Board/Petitioner). Sandra L. Sharon was duly appointed 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, Leigh Lengacher, appears in person.

Findings of Fact

1. On December 2, 2008, the respondent entered into a Consent Agreement and Final Order with the Board.
2. In the Consent Agreement and Final Order the respondent admitted to solicitation of drugs and money from other employees of Wheatland Health Care Center in Kingman, Kansas.
3. The respondent also admitted to diverting Lortab while employed at Wheatland Health Care Center in Kingman, Kansas.
4. A urinary drug screen given to the respondent on May 1, 2006 tested positive for hydrocodone and hydromorphone.
5. While employed at Holiday Resort of Salina, the respondent was arrested and found guilty of possession of methamphetamines.
6. When law enforcement searched the respondent's vehicle in July 2012, police found protected health information in the respondent's vehicle.
7. The respondent allowed her license to practice nursing in the State of Kansas to lapse on January 31, 2011.
8. The respondent submitted a reinstatement application to practice nursing with the Board on December 4, 2012. The respondent failed to report she had earlier been disciplined by the Board when asked, "Has any license, certification or registration (nursing or other) ever been denied, revoked, suspended, limited or disciplinary action taken by a licensing authority of any state, agency of the U.S. Government, territory of the U.S. or county?"

9. The respondent failed to report her discipline with the Kansas State Board of Nursing even though the Consent Agreement and Final Order of February 17, 2009, at paragraph 23 provides as follows:

“This agreement is a discipline and must be reported on any future renewal or reinstatement applications...”

#### Applicable Law

1. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 to examine, license, renew license and may limit, deny, suspend or revoke a license for proper legal cause as outlined in K.S.A. 65-1120.
2. It is a violation of the Kansas Nurse Practice Act to be unable to practice nursing with skill and safety due to current abuse of drugs or alcohol. K.S.A. 65-1120(a)(4).
3. It is a violation of the Kansas Nurse Practice Act to be have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense, unless the applicant or licensee established sufficient rehabilitation to warrant the public trust. K.S.A. 65-1120(a)(2).
4. It is a violation of the Kansas Nurse Practice Act to have a license denied, revoked, limited or suspended, or to have disciplinary action taken against a license issued by the State of Kansas or any other licensing authority of another state, agency of the U.S. or U.S. government. K.S.A. 65-1120(a)(8).

#### Discussion

1. When the respondent tested positive for hydrocodone and hydromorphone, then was found guilty of possession of methamphetamine, she demonstrated the inability to practice nursing with skill and safety due to current abuse of drugs or alcohol. This is a violation of K.S.A. 65-1120(a)(4).
2. When the respondent was found guilty of possession of methamphetamines she violated K.S.A. 65-1120(a)(2).
3. The respondent has failed to show, as required in K.S.A. 65-1120(a)(2), that she has obtained sufficient rehabilitation to warrant the public trust. Pursuant to *Vakas v. Kansas State Board of Healing Arts*, 248 Kan. 589(1991), factors to be considered in determining whether a license should be reinstated after a disciplinary finding have been made are:
  - The present moral fitness of the petitioner;
  - Demonstration of consciousness of the wrongful conduct and disrepute which the conduct has brought to the profession;
  - The extent of the petitioner’s rehabilitation;

- The nature and seriousness of the original misconduct;
  - The conduct subsequent to discipline;
  - The time elapsed since the original discipline;
  - The petitioner's character, maturity, and experience at the time of the original revocation;
  - The petitioner's present competence in medical skills.
4. The respondent has failed to show sufficient rehabilitation to warrant public trust.
  5. The respondent failed to report on her reinstatement application she had previously been disciplined by the Board. This is a violation of K.S.A. 65-1120(a)(1) and K.S.A. 65-1120(a)(8).

#### Conclusion


1. Because the appellant has failed to show rehabilitation from her prior acts of testing positive for hydrocodone and hydromorphone and being found guilty of possession of methamphetamine, the Board's petition to deny the respondent's reinstatement application is granted.
2. Cost of this action shall be assessed against 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.

  
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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 Sept. 12, 2013, I mailed this original document through State Building  
Mail to:

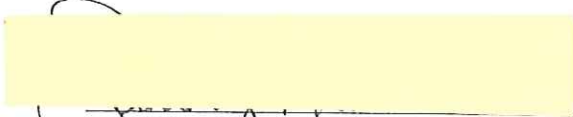
Mary Blubaugh  
Executive Administrator  
Kansas State Board of Nursing  
900 SW Jackson, LSOB, Ste. 1051  
Topeka, KS 66612  
Telephone: 785-296-4325

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:

Leigh Lengacher  
8344 Woodburn Dr.  
Indianapolis, Indiana 46234

  
Staff Person  
Office of Administrative Hearings