

## BEFORE THE KANSAS STATE BOARD OF NURSING

IN THE MATTER OF  
VELVA HIGGINS  
License No. 23-26510-041

Case No. 11-176-6 & 12-183-6  
OAH No. 15BN0106

**INITIAL ORDER**

Now on this 28th day of September 2016, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing (Board/Petitioner) pursuant to K.S.A. 77-536. Sandra L. Sharon was duly appointed Presiding Officer/Administrative Law Judge pursuant to K.S.A. 77-514. The Petitioner, the Kansas State Board of Nursing, appears by Assistant Attorney General Michelle David, Disciplinary Counsel for the Board. The respondent, Velva Higgins, appears in person.

Findings of Fact

1. On September 21, 2016, as a result of a petition filed by the Board to revoke the respondent's license to practice nursing in the State of Kansas, the respondent entered into a Diversion Agreement with the Board.
2. In the Diversion Agreement, the respondent stipulated to facts including: she was terminated from employment for failing to properly document receipt of medication from the pharmacy and discrepancies in medication destruction, and; she was terminated from Rose Hill Services for attempting to divert a card containing a controlled substance, thirty (30) Lortab.
3. In the Diversion Agreement, the respondent agreed to complete Continuing Nursing Education (CNE) in addition to the regularly required CNE. The additional CNE was to include two hours on the Kansas Nurse Practice Act, 3-6 hours on Documentation, and 3-6 hours on Legal Ethics. The respondent failed to complete these CNE requirements.
4. The respondent also agreed in the Diversion Agreement to submit to a drug and alcohol evaluation through the Kansas Nurse Assistance Program (KNAP) and follow KNAP recommendations and requirements. The respondent did not comply with this until July 2016. However, as of September 8, 2016, the respondent's case with KNAP was closed due to program non-compliance.
5. In the Diversion Agreement the respondent also agreed, once employed in a nursing position, to provide a copy of the Diversion Agreement to her employer and have her employer submits quarterly reports to the Board regarding her nursing performance. The respondent became employed by Corizon and Watercrest. She failed to notify her employers that she was under a diversion agreement with the Board. No employer

reports were submitted until April 2016 when the respondent became employed by Victoria Falls.

#### Applicable Law

1. Upon violation of the Kansas Nurse Practice Act the Board has the authority to deny, revoke, limit, or suspend any license to practice nursing in the State of Kansas or any application for a license to practice nursing. K.S.A. 65-1120(a).
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 fail to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient. K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(c).
4. It is a violation of the Kansas Nurse Practice Act to inaccurately record, falsify, or alter any record of a patient or agency or of the Board. K.S.A. 65-112(a)(6) and K.A.R. 60-3-110(d).
5. It is a violation of the Kansas Nurse Practice Act to divert drugs, supplies, or property of any patient or agency. K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(n).
6. It is a violation of the Kansas Nurse Practice Act to fail to complete the requirements of the impaired provider program of the Board. K.S.A. 65-1120(a)(7) and K.A.R. 60-3-110(s).

#### Discussion

1. In the Diversion Agreement, the respondent stipulated to violations of the Kansas Nurse Practice Act as outlined in paragraphs 2 through 5 in the Applicable Law section of this order.
2. In failing to participate in the KNAP program until July 2016, the respondent was a risk of an additional violation of the Kansas Nurse Practice Act. However, by failing to comply with the requirement of KNAP, her KNAP case was closed and she has once again violated the Kansas Nurse Practice Act, at K.S.A. 65- 1120(a)(7) and K.A.R.60-3-110(s).

#### Conclusion

The petition of the Board to revoke the respondent's license to practice nursing in the State of Kansas is granted.

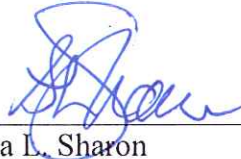
Cost of this action shall be assessed against the respondent in the amount of \$100.00 pursuant to K.S.A. 65-1120(d).

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 Oct. 20, 2016, I mailed this original document through State Building  
Mail to:

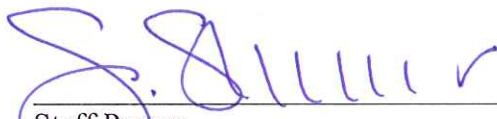
Mary Blubaugh  
Executive Administrator  
Kansas State Board of Nursing  
900 SW Jackson, LSOB, Ste. 1051  
Topeka, KS 66612

and a copy of this document through State Building Mail to:

Michelle David  
Assistant Attorney General  
Disciplinary Counsel for the Kansas State Board of Nursing  
900 SW Jackson, LSOB, Ste. 1051  
Topeka, KS 66612

and a copy of this document through first class mail to:

Velva D. Higgins  
16556 SW US HWY 77  
August, KS 67010

  
\_\_\_\_\_  
Staff Person  
Office of Administrative Hearings



**BEFORE THE KANSAS STATE BOARD OF NURSING**

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

**IN THE MATTER OF**

**VELVA D. HIGGINS**

**License No. 23-26510-041**

**Case No. 11-176-6 and 12-183-6**

**PETITION**

FILED  
JAN 12 2015  
JAN 12 2015  
KSBK  
KSBK

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, Velva D. Higgins, is licensed to practice nursing in Kansas through 4/30/2015. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 16556 SW US HWY 77, Augusta, Kansas 67010.
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) In Case No. 11-176-6 Respondent was employed at Medicalodges in Douglass, Kansas from 10/13/2010 to 1/10/2011. She was terminated from the facility because she failed to properly document the receipt of medication from the pharmacy and discrepancies were found regarding the medication found in the destruction cabinet.

(b) In Case No. 12-183-6 Respondent was employed at Rose Hill Health Services, in Rose Hill, Kansas from 8/29/2011 to 12/8/2011. She was terminated after she admitted to an attempt to divert a card of a controlled substance, thirty (30) Lortab.

### VIOLATIONS

6. Respondent has violated the Kansas Nurse Practice Act as follows:

Count 1: 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 2: K.S.A. 65-1120(a)(6), unprofessional conduct, by diverting drugs, supplies, or property of any patient or agency; K.A.R. 60-3-110(n);

Count 3: K.S.A. 65-1120(a)(6), unprofessional conduct, by failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient; K.A.R. 60-3-110(c);

Count 4: K.S.A. 65-1120(a)(6), unprofessional conduct, by inaccurately recording, falsifying, or altering any record of a patient or agency or of the board; K.A.R. 60-3-110(d);

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 at least the amount of \$70.00.

Respectfully submitted,

Derek Schmidt  
Kansas Attorney General

By: 

Alma A. Heckler, #11555  
Assistant Attorney General  
Kansas State Board of Nursing  
Landon State Office Building  
900 SW Jackson #1051

Topeka, KS 66612