

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

FILED

DEC 09 2013

KSBN

IN THE MATTER OF
BRYAN P. MC CREARY
License No. 23-27124-072
Case No: 12-2196-9, 12-806-4 and 11-1103-4

SUMMARY ORDER TO REVOKE

Now this 9th day of December, 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 Bryan P. McCreary, (Licensee) by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

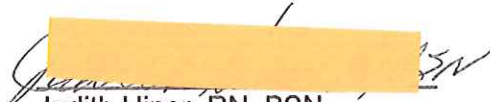
1. a. Licensee is licensed to practice nursing in the state of Kansas as a licensed practical nurse through 7/31/2014. The Board has jurisdiction over the Licensee and the subject matter of this action.
- b. Licensee's address of record is 303 E. 5th, Newton, Kansas 67114.
- c. In Case No. 12-2196-9, Licensee while employed by Bethesda Home in Goessel, Kansas, from 4/9/2012 to 20/16/2012, was arrested after an investigation by the Marion County Sherriff's office into theft and tampering with narcotics. Licensee was videotaped sitting at a desk in the special care unit, cutting open blisters on a blister card of narcotics and replacing the pills with Tylenol. Bethesda conducted an investigation and determined the Licensee, between 4/19/2012 and 10/16/2012, took 111 narcotic pills at a minimum. He was charged criminally with misdemeanor theft and under K.S.A. 21-3437(a)(1) and (2) of mistreatment of a dependent adult. He pled to the charge of mistreatment of a dependent adult and was found guilty 1/9/2013. Mistreatment of a dependent adult is a person felony and after repeal by the legislature in 2011, the crime can now be found K.S.A. 21-5417 and is still a person felony.
- d. Licensee has committed a person felony and cannot continue to practice nursing.
- e. In Case No. 12-806-4, Licensee was suspected of diversion of drugs while employed by the Newton Presbyterian Manor in Newton, Kansas 7/15/2011 and 3/14/2012. Four cards of narcotics were delivered to the facility by a local pharmacy on or before 2/13/2012 but the Licensee only checked in three cards and the fourth one disappeared. Licensee was referred to the Kansas Nurse Assistance Program (KNAP) and enrolled on 2/19/2013. His case closed on 4/5/2013. He stopped checking in with Affinity. Licensee admitted to an addiction to opioids, amphetamines and alcohol.
- f. In Case No. 11-1103-4 Licensee failed to report a conviction dated 4/16/1994, misdemeanor transporting liquor to the Board of Nursing on his original application and subsequent applications. He was licensed as a LPN on 8/12/1997.

- g. Licensee has notified KNAP that he intended to surrender his license to the Board but has not taken steps to do so.
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)(2), ... no license or authorization to practice nursing as licensed professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto: (Emphasis added.)
- (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);
- (d) K.S.A. 65-1120(a)(6), unprofessional conduct, by failing to complete the requirements of the impaired provider program of the board; K.A.R. 60-3-110(s);
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.


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

CERTIFICATE OF SERVICE

I certify that on the 9th day of December, 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:

Bryan P. McCreary
303 E. 5th
Newton, Kansas 67114


Alma A. Heckler, #11555
Assistant Attorney General