

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

MAR 8 0 2010

KSBN

**IN THE MATTER OF
NICOLE L. KOLARIK
License No. 23-028053-071**

Case No. 07-467-6, 09-883-6

PROPOSED DEFAULT ORDER TO REVOKE LICENSE

NOW ON THIS 30th day of March, 2010, 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:

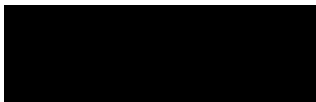
1. Respondent is licensed to practice nursing in Kansas through 7/31/2011. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent was sent a copy of the petition and notice of this hearing to respondent's last known address and service is proper. Respondent does not appear.
3. Petitioner moves for issuance of a proposed default order revoking respondent's license. The petitioner's request is granted by default pursuant to K.S.A. 77-520.
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.
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. This Proposed Default Order shall become effective seven days after service or ten days after mailing of this order unless the Respondent files a written motion with the Board stating why the Proposed Default Order should be vacated and the order is then vacated.

9. If this Proposed Default Order becomes effective, the Respondent's request for administrative hearing is dismissed pursuant to K.S.A. 77-520(d).

10. Disciplinary counsel shall mail a copy of this proposed default order to respondent's last known address.

IT IS SO ORDERED.

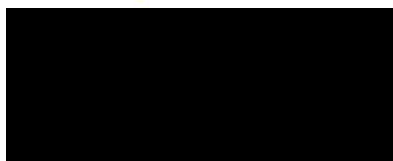

Sandra L. Sharon, Presiding Officer
Office of Administrative Hearings
1020 S Kansas Ave.
Topeka, KS 66612-1327

NOTICE

Pursuant to K.S.A. 77-527, either party may request a review of this order by filing a petition for review with the Kansas State Board of Nursing. The petition for review shall state its basis. A petition for review must be filed within 15 days from the date this order becomes effective. 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: State Board of Nursing - Legal Division, Landon State Office Building, 900 SW Jackson, Ste 1051, Topeka, KS 66612-1230.

Pursuant to K.S.A. 77-530, if neither party requests a review by the Kansas State Board of Nursing, then this initial order becomes final and binding on both parties on the 30th day following its service.

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.


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 30th day of March, 2010, 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:

Nicole L. Kolarik
1101 Custer Lane
Augusta, KS 67010



Alma A. Heckler
Assistant Attorney General

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

**IN THE MATTER OF
NICOLE L. KOLARIK
License No. 23-028053-071**

RECEIVED
FEB 8 2010
KSNB LEGAL

Case No. 07-467-6, 09-883-6

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, Nicole L. Kolarik, is licensed to practice nursing in Kansas through 7/31/2011. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 1101 Custer Lane, Augusta, KS 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) Respondent has two investigations of reports of drug diversion and drug impairment.

In Case No. 07-467-6 respondent was employed at the Foundations at Andover, Andover,

Kansas from 10/11/06 to 4/20/07. She self terminated after she worked on 4/18/07. She told staff that she had to leave town on a family emergency and gave her narcotic keys to the Director of Nursing (DON). When the narcotic cabinet was searched two empty narcotic cards were found with the narcotic sheets attached. The first card should have 26 pills (oxycodone/actemin) attached and the second card should have had 4 tabs of Lortab attached. Further investigation indicated that the respondent had approved borrowing medications from one resident to give to another resident and to document the usage for the resident who received it. Such a practice is against facility practice policies and procedures. The practice of borrowing medications did not account for all of the missing controlled substances.

(b) Respondent was directly referred to the Kansas Nurse Assistance Program (KNAP) after the investigation was presented to the Kansas Board of Nursing Discipline Committee on or about 6/12/08.

[REDACTED]

(c)

[REDACTED]

[REDACTED] Respondent had a key restriction and could not pass narcotics from December 2008 until June 17, 2009.

(d) Another investigation was opened on the respondent after a report was received that alleged the respondent diverted Lortab in July of 2009 while employed at Lakepoint Nursing Center in Augusta, Kansas.

(e) Three weeks after respondent's key restriction was lifted, on July 7, 2009 a narcotic count revealed a missing card of Lortab medication and the patient's log sheet had been removed from the Narcotic Log Book. The medication room is video recorded and the July 6, 2009 diversion of narcotics by the respondent was caught on tape. The respondent admitted to

the diversion when confronted by Administration on July 8, 2009. Respondent's employment was terminated on July 10, 2009 by Lakepoint.

(f)

(g)

(g) Respondent is not safe to practice.

VIOLATIONS

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

Count 1: K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n);

Count 2: 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 3: 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).

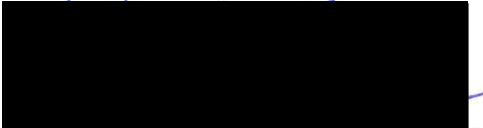
Count 4: K.S.A. 65-1120(a)(6), unprofessional conduct, by failing to complete the requirements of the impaired provider program of the board; K.A.R. 30-3-110 (s)

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,

Stephen N. Six
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