

FILED

AUG 19 2011

KSBN

BEFORE THE KANSAS STATE BOARD OF NURSING

IN THE MATTER OF

Case No. 08 032 5; 08 1082 0;  
10 987 5

Jamie L. Rodriguez  
License No. 23 029322 042

OAH No. 09BN0021

**INITIAL ORDER**

Now on this 27th day of July 2011, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing. Sandra L. Sharon was duly appointed as Presiding Officer pursuant to K.S.A. 77-514. The Petitioner, the Kansas State Board of Nursing (Board), appears through Assistant Attorney General, Alma A. Heckler, Disciplinary Counsel for the Board. The Respondent, Jamie L. Rodriguez, appears in person.

Findings of Fact

1. On August 4, 2008, the respondent entered into a Consent Agreement and Final Order wherein the respondent admitted to diverting Lortab and Morphine from her employer.
2. The consent Order and Final Agreement suspended the respondent's license to practice nursing. This suspension was stayed by the Order on the respondent's agreement to comply with the provisions of the Consent Agreement.
3. On May 20, 2009, the Stay of the Suspension of the respondent's license to practice nursing in the State of Kansas was lifted for six months. The basis of lifting the Stay was that the respondent [REDACTED], failed to disclose to her employer that she was under a Consent Agreement that required employer evaluations sent to the Board quarterly, and failure to report to her employer that she was under a narcotics key restriction order.
4. The Suspension was then again stayed April 27, 2010. At this time, the respondent [REDACTED] and employer evaluation reports were submitted to the Board.
5. On November 23, 2010, the stay was once again lifted, this time for one year, due to the respondent's non-compliance with KNAP.
6. While on the year suspension, on January 18, 2011, the respondent tested positive for Morphine, Hydrocodone, Oxycodone, and Oxymorphone.
7. Again, while on the one year suspension, on February 17, 2011, the respondent tested positive for Hydromorphone and Hydrocodone.
8. The respondent does not have a valid prescription for the drugs for which she tested positive.

9. Based on the above facts, the Board filed a Petition to Revoke the respondent's license to practice nursing in the State of Kansas on March 15, 2011.
10. An administrative hearing was held July 27, 2011 during which the Board established the above numerated facts by a preponderance of the evidence.
11. At the hearing, the respondent acquiesced to the evidence presented by the Board.

#### Conclusions of Law

1. The Kansas State Board of Nursing has the authority to take disciplinary action, deny, revoke, limit, or suspend a license to practice nursing in the State of Kansas. Kansas Statutes Annotated (K.S.A.) 65-1120.
2. It is a violation of the Kansas Nurse Practice Act to exhibit unprofessional conduct by failing to complete the requirements of the Impaired Provider Program of the Board. K.S.A. 65-1120(a)(6) and Kansas Administrative Regulation (K.A.R.) 30-3-110(s).
3. It is a violation of the Kansas Nurse Practice Act when a nurse is unable to practice with skill and safety due to current abuse of drug or alcohol. K.S.A. 65-1120(a)(4).
4. It is violation of the Kansas Nurse Practice Act when a nurse exhibits unprofessional conduct by failing to comply with any disciplinary order of the Board. K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(r).

#### Conclusions


1. The respondent violated K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(s) when she became non-compliant with KNAP.
2. The respondent violated the Kansas Nurse Practice Act when she tested positive for drugs for which she did not have a prescription on January 18, 2011 and February 17, 2011. This is a violation of K.S.A. 65-1120(a)(4).
3. The respondent failed to comply with the Consent Agreement and Final Order she entered into with the Board. This is a violation of K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(r).
4. Pursuant to K.S.A. 65-1120, the Board's Petition to Revoke the respondent's license to practice nursing in the State of Kansas is granted.
5. 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, Suite 1051, 900 SW Jackson, 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

CERTIFICATE OF SERVICE

On Aug 19, 2011, I mailed a copy of this document to:

Jamie L. Rodriguez  
11700 E. Waterman, #207  
Wichita, KS 67207

Mary Blubaugh, Executive Director  
Alma A. Heckler, Assistant Attorney General  
Kansas State Board of Nursing  
900 SW Jackson, LSOB, Ste. 1051  
Topeka, KS 66612

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