

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED
OCT 23 2009
KSBN

**IN THE MATTER OF
ELIZABETH A. WALLACE
License No. 23-031336-091**

Case No. 06-696-7

SUMMARY ORDER

Now this 23rd day of October, 2009, 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 reinstatement application of Elizabeth A. Wallace (Applicant) by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. (a) Applicant was previously licensed to practice nursing in the state of Kansas. Applicant's license to practice nursing in the state of Kansas as a licensed practical nurse lapsed on or about 9/30/2007. Applicant submitted an application for reinstatement of Applicant's license to practice nursing in the state of Kansas on or about October 16, 2009. The Board has jurisdiction over the Applicant and the subject matter of this action.
- (b) Applicant's address of record is 7800 Juniper, Prairie Village, Ks. 66208.
- (c) On or about 10/16/09, the Board received Applicant's application for reinstatement of Applicant's license to practice nursing in the state of Kansas.
- (d) Review of the Application and other information gathered by the Board revealed the following information upon which this action is based.
- (e) Applicant entered a Consent Agreement and Final Order (Consent Agreement) on or about July 30, 2007, with the Kansas State Board of Nursing to resolve case number 06-696-7. The Consent Agreement remained in effect until such time as the Applicant completes all conditions and requirements of the Consent Agreement. Applicant has not completed all conditions and requirements of the Consent Agreement.
- (f) Pursuant to the July 30, 2007, Consent Agreement, Applicant's license to practice nursing in Kansas was suspended with a stay of the suspension.
- (g) The July 30, 2007, Consent Agreement provides upon a first finding of non compliance with the conditions or requirements of the Consent Agreement, the Stay of Suspension of Applicant's license to practice nursing in the State of Kansas, shall be lifted for a period of six months from the date of said finding.
- (h) The July 30, 2007, Consent Agreement provides upon the Stay of Suspension being lifted due to a finding of non-compliance with the Consent Agreement, the Suspension will not again be Stayed until the Applicant has, following the prescribed time period of suspension,

provided written verification to the Board that Applicant is in compliance with all conditions and requirements of this Consent Agreement. Upon the Applicant providing said written verification the suspension will again be stayed.

(i) Conditions of the Consent Agreement include a condition that the Applicant must provide the Board with four quarterly reports. The Applicant has not completed three of the quarterly reports.

(j) Conditions of the July 30, 2007 Consent Agreement include a condition that the Applicant participate in and complete the recommendations and requirements of the Kansas Nursing Assistance Program (KNAP).

(k)

The Board included this information in the petition filed to request suspension of Applicant's license.

(l) Applicant subsequently violated her agreement again with the Board by relapsing again on Percocet on 8/31/09 and 9/16/09.

(m) Applicant failed to appear at the hearing scheduled on October 19, 2009 on the Board's Petition to Lift Stay of Suspension and her license is suspended for six months from the practice of nursing if she is allowed to reinstate.

(n) Applicant reported she allowed her license to lapse on the mistaken belief that the Board would not have jurisdiction to proceed to hearing on the petition to lift the stay of suspension and has requested reinstatement of her license to practice nursing.

CONCLUSIONS OF LAW

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)(6), unprofessional conduct by K.A.R. 60-3-110(r), failing to comply with any disciplinary order of the board.

(b) 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).

(c) Per *Vakas v. Kansas State Board of Healing Arts*, 248 Kan. 589 (1991), the factors to be considered in determining whether a license should be reinstated after a disciplinary finding has been made are the following:

- The present moral fitness of the petitioner;

- The demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought the profession;
- The extent of 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.

3. Applicant'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 and 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.

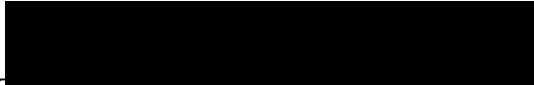
5. The role of the Kansas State Board of Nursing is to protect citizens of Kansas.

IT IS THEREFORE ORDERED BY THE KANSAS STATE BOARD OF NURSING THAT

1. Applicant's reinstatement application to practice nursing in the state of Kansas is denied.

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.

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.


Jayet Jacobs, JPN
Investigative Committee, Chair
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

I certify that on the 23rd day of October, 2009, 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:

Elizabeth A. Wallace
7800 Juniper
Prairie Village, Kansas 66208



Alma A. Heckler, #11555
Assistant Attorney General