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BEFORE THE KANSAS STATE BOARD OF NURSINGLandon State Office Building, 900 S.W. Jackson #1051
Topeka, Kansas 66612-1230**IN THE MATTER OF
TONYA M. VAN HORN
License No. 23-032810-051**FILED 11 FEB '13 PM 2:18
#917
FEB 15 2013 per
KSBN**Case No. 12-1035-5****PROPOSED DEFAULT ORDER TO DENY REINSTATEMENT**

NOW ON THIS 31st day of January 31, 2013, petitioner, the Kansas State Board of Nursing, appears by disciplinary counsel, Alma A. Heckler, Assistant Attorney General, for a Hearing on the Petition. Respondent does not appear.

Wherefore, the Presiding Officer finds as follows:


1. Respondent filed a reinstatement application to practice nursing in Kansas on or about July 14, 2012. 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 to deny reinstatement 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 denying reinstatement of 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 reinstatement application and license to practice nursing is denied. Respondent may not practice nursing in Kansas.
6. Costs of the action in at least the amount of \$70.00 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 nursing certificate and any license cards in his or her possession 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.

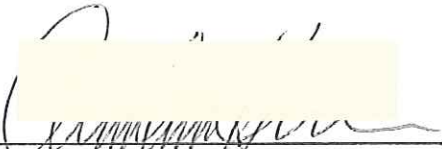

Sandra Sharon, Presiding Officer
Office of Administrative Hearings
1020 S Kansas Ave.
Topeka, KS 66612-1327

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 7 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 15th day of February, 2013, the foregoing copy of the PROPOSED DEFAULT ORDER TO DENY REINSTATEMENT was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Tonya M. Van Horn
732 S. Bonn
Wichita, Kansas 67213



Alma A. Heckler, #11655
Assistant Attorney General

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

FILED
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IN THE MATTER OF
TONYA M. VAN HORN
License No. 23-032810-051

KSBN

Case No. 12-1035-5

PETITION TO DENY REINSTATEMENT

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, Tonya M. Van Horn, filed for reinstatement to practice nursing in Kansas on or about July 14, 2012. The Board has jurisdiction over the applicant and the subject matter of this action.
2. Respondent 's address of record is 732 S. Bonn, Wichita, Kansas 67213.
3. After an investigation, the Board's investigative committee found reasonable grounds to believe that the applicant has previously 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 entered into a Consent Agreement and Final Order (Consent Agreement) on or about June 19, 2008, with the Kansas State Board of Nursing to resolve case numbers 06-644-

4 and 07-791-4. Applicant admitted to the following facts in the June 19, 2008 Consent Agreement:

On or about 4/17/2006, while respondent was employed as a nurse at Halstead Place, Halstead, KS, respondent took a resident's personal check. Respondent forged the check and cashed it. On or about 4/18/2006, respondent was interviewed by police regarding the resident's personal check. After the interview, respondent overdosed on anti-depressants and was hospitalized.

On or about 4/21/2006, respondent was admitted to Halstead Valley Hope Treatment Program. During the treatment program, respondent was diagnosed as cocaine dependent. On or about 5/9/2006, respondent was referred to the impaired provider program of the Board, the Kansas Nurse Assistance Program (KNAP). On or about 6/9/2006, respondent signed a statement of understanding with the KNAP program.

On or about 5/19/2006, respondent successfully completed the Halstead Valley Hope Treatment Program, but on or about 10/18/2006, respondent was re-admitted to Halstead Valley Hope Inpatient Treatment Center after she tested positive for cocaine on 10/7/2006. On or about 10/21/2006, respondent left the facility against medical advice.

On or about 7/5/2006, KNAP issued a letter stating respondent was noncompliant with her KNAP contract. Respondent failed to sign up with Compass Vision for random drug screens. On or about 10/7/2006, respondent submitted to a urine drug screen. The result of the urine drug screen was positive for cocaine. On or about 10/11/2006, KNAP issued a letter stating respondent was noncompliant with her KNAP program because respondent failed to attend monthly monitoring meetings; document 12 step meetings; and failed to pay KNAP fees.

On or about 10/24/2006, KNAP issued a letter stating respondent was noncompliant with her KNAP program in that respondent tested positive for cocaine on 10/7/2006; left treatment against medical advice; and failed to contact KNAP.

On or about 11/14/2006, respondent entered Prairie View Behavior and Mental Healthcare. On or about 2/8/2007, Prairie View issued a statement that respondent had completed the inpatient portion of her treatment plan and respondent was safe to return to nursing.

On or about 7/20/2007, respondent submitted to a urine drug screen. The result of the urine drug screen was positive for cocaine. On or about 8/10/2007, KNAP extended respondent's KNAP program until 7/20/2010. The extension was due in part to the 7/20/2007 positive urine drug screen.

On or about 12/14/2007, KNAP issued a letter stating respondent was noncompliant with her KNAP program in that respondent failed to attend monthly meetings; and failed to document 12 step meetings. On or about 2/12/2008, KNAP issued a letter stating respondent was noncompliant with her KNAP program in that respondent failed to document 12 step meetings; failed to attend monthly monitoring meetings; and failure to provide list of prescribed medications.

(b) The June 19, 2008 Consent Agreement remained in effect until such time as the respondent completed all conditions and requirements of the Consent Agreement. Respondent did not complete all conditions and requirements of the Consent Agreement.

(c) Respondent let her license lapse May 31, 2009 and filed for reinstatement on June 10, 2009. Respondent was allowed to reinstate upon entering into an Addendum to Consent Agreement and Final Order on June 1, 2009, which reinforced her continuing compliance with the original Consent Agreement dated June 19, 2008.

(d) Pursuant to the June 19, 2008, Consent Agreement and the June 1, 2009 Addendum, respondent's license to practice nursing in Kansas was suspended with a stay of the suspension.

(e) The June 19, 2008, Consent Agreement and the June 1, 2009 Addendum provides upon a first finding of non compliance with the conditions or requirements of the Consent Agreement,

the Stay of Suspension of respondent'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.

(f) The June 19, 2008, Consent Agreement and the June 1, 2009 Addendum provides upon a second finding of non compliance with the conditions or requirements of the Consent Agreement, the Stay of Suspension of respondent's license to practice nursing in the State of Kansas shall be lifted for a period of one year from the date of said finding.

(g) The June 19, 2008, Consent Agreement and the June 1, 2009 Addendum 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 respondent has, following the prescribed time period of suspension, provided written verification to the Board that respondent is in compliance with all conditions and requirements of this Consent Agreement. Upon the respondent providing said written verification, the suspension will again be stayed.

Conditions of the June 19, 2008, Consent Agreement and the June 1, 2009 Addendum include a condition that the respondent participate in and complete the recommendations and requirements of the Kansas Nursing Assistance Program (KNAP).

(h) Respondent became noncompliant with KNAP, again, by failing to attend 12 step program meetings and monthly monitoring meetings. Respondent failed to complete any urine screens. Respondent was notified on October 30, 2009 that her KNAP case was closed.

On or about November 17, 2009, the Board filed a Petition to Lift Stay of Suspension based on respondent's KNAP case being closed.

(i) On or about January 26, 2010, respondent appeared by phone for a pre-hearing conference. The pre-hearing conference was converted to a hearing pursuant to K.S.A. 77-516(c)(7).

On or about January 28, 2010, Sandra L. Sharon, presiding officer, issued an initial order. The initial order suspended respondent's license for a period of six months. At the end of the six months, respondent was required to verify in writing that she was in compliance with her

Consent Agreement in order for a stay of suspension to be issued. Respondent was ordered to pay costs in the amount of \$70.00 and the respondent has failed to pay those costs.

(j) On or about June 15, 2010, Respondent re-entered KNAP, with an estimated completion date of June 15, 2013.

(k) In a letter dated October 26, 2010, respondent was informed by KNAP that she was non-compliant based on failure to check in to Affinity for random urine drug testing.

(l) In a letter dated December 6, 2010, respondent was informed by KNAP that she was in serious non-compliance with her KNAP agreement and her file was closed.

(m) Respondent's license was suspended for one year by Summary Order and that order became effective on 3/1/2011. Respondent was again referred to KNAP on 2/16/2011 but respondent let her license lapse on 5/31/2011 and her KNAP case was closed.

(n) Respondent filed for reinstatement on 6/20/2011 and the application was denied by a June 28, 2011 Summary Order. The respondent did not appeal.

(o) Respondent has a history of discipline. Per Vakas v. Kansas State Board of Healing Arts, 248 Kan. 589 (1991), 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.

Respondent files for reinstatement and states in a letter accompanying her reinstatement application, that she has completed treatment but does not supply any documentation to support her allegations of treatment. Furthermore, respondent has a history of treatment, but also a history of repeated relapses after successful completion of treatment, and has

demonstrated an inability to follow through with monitoring. The respondent has exceeded the number of approved referrals to KNAP. Respondent has been referred four times and the limit is three. Board requests that her license not be reinstated and her reinstatement application be denied.

VIOLATIONS

6. Respondent has violated the Kansas Nurse Practice Act by repeatedly violating the statutes and regulations below:

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), to be guilty of unprofessional conduct as defined by rules and regulations of the Board, by KAR 60-3-110(r), failing to comply with any disciplinary order of the board;


Count 3: 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 reinstatement application to practice nursing in Kansas be denied, that the respondent again be ordered to pay costs of \$70.00 assessed in the January 28, 2010 initial order in Case No. 07-791-4 and 06-644-4 and that costs of this action be assessed to the respondent in 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