

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

FILED
MAR 31 2016
KSBN

IN THE MATTER OF
TONYA HOGAN

OAH No. 16BN0081

License No. 23-35481-122
Case No. 14-1388-9

NOTICE OF PROPOSED DEFAULT ORDER
AND
PROPOSED DEFAULT ORDER

This matter comes on for prehearing before the Kansas State Board of Nursing (Board/Petitioner). Pursuant to K.S.A. 77-514, Sandra L. Sharon was appointed Administrative Law Judge (ALJ)/Presiding Officer. The Board appears through Bryce D. Benedict, Disiplinary Counsel for the Board. The respondent, Tonya Hogan, failed to appear. In consideration of this matter, a Proposed Default Order is entered against respondent.

The presiding ALJ finds as follows:

1. The respondent is licensed to practice nursing in Kansas through December 31, 2016.
2. The Petitioner, the Kansas State Board of Nursing Board, has jurisdiction over the respondent and the subject matter of this action.
3. On November 19, 2015, a Petition was filed by the Board seeking revocation of the respondent's nursing license. It was sent to her at her last known address and was not returned as undeliverable.
4. On November 23, 2015, a Notice of Prehearing Conference was sent to the respondent. The conference was scheduled for March 29, 2016 at 9:00 a.m. The notice was not returned as undeliverable.
5. On March 29, 2016, a prehearing conference was convened. The Board appeared by disciplinary counsel, Bryce D. Benedict. The respondent did not appear in person or by phone.
6. Pursuant to Kansas Statutes Annotated (K.S.A.) 77-520(a), "[i]f a party fails to attend or participate in a prehearing conference, hearing or other

stage of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order.”

7. The respondent is in default pursuant to K.S.A. 77-520.
8. This Proposed Default Order shall become effective and deemed an initial order, seven days after service or ten days after mailing of this order unless the respondent files a written motion stating why the Proposed Default Order should be vacated and the order is then vacated. A motion to vacate shall be mailed or personally delivered to: Kansas State Board of Nursing, Legal Division, Landon State Office Building, 900 SW Jackson, Ste. 1051, Topeka KS 66612-1230, with a copy to be mailed or personally delivered to: Sandra L. Sharon, Administrative Law Judge, Office of Administrative Hearings, 1020 S. Kansas Ave., Topeka, KS 66612-1327.
9. If this Proposed Default Order becomes effective, the allegations contained in the Petition will be deemed uncontroverted and the Petition will be granted and incorporated into this order as if fully set forth herein. The respondent’s license to practice nursing will be revoked. The respondent will immediately forward his or her original Kansas nursing license to the Board.
10. In addition, costs of the action in the amount of \$100.00 will be assessed to the respondent to be paid to the Board by cashier’s check or money order within 30 days of the effective date of this order.

The presiding ALJ, being well and duly advised in the premises, now enters this Proposed Default Order against the respondent. It shall take effect as specified in the above findings.

IT IS SO ORDERED.

Appeal Rights and Other Administrative Relief

Pursuant to K.S.A. 77-520, if the proposed default order becomes effective, it is deemed an initial order, as set forth above. Pursuant to K.S.A. 77-527, either party may request review of the initial order by filing a petition for review with the Kansas State Board of Nursing within 15 days from date the order is deemed an initial order. Failure to timely request review may preclude further judicial review. Petitions for review shall be mailed or personally delivered to: Kansas State Board of Nursing, Legal Division, Landon State Office Building, 900 SW Jackson, Ste. 1051, Topeka, KS 66612-1230.

If neither party requests review, the initial order becomes a final order and is binding on the 30th day following its mailing.

A party may seek judicial review of a final order by filing a petition for judicial review pursuant to K.S.A. 77-601, *et seq.* Reconsideration of a final order is not a prerequisite to judicial review. A copy of any petition for judicial review shall be served on Mary Blubaugh, Executive Administrator, Kansas State Board of Nursing, 900 SW Jackson, Suite 1051, Topeka, KS 66612-1230.



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

CERTIFICATE OF SERVICE

On March 30, 2016, I mailed this original document through State Building Mail to:

Mary Blubaugh
Executive Administrator
Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612
Telephone: 785-296-4325

and a copy of this document through State Building Mail to:

Bryce D. Benedict
Assistant Attorney General
Disciplinary Counsel for the Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612
Telephone: 785-296-4325

And a copy of this document through first class mail to:

Tonya Hogan
321 Sherman Street
Emporia, KS 66801



Staff Person

Office of Administrative Hearings

BEFORE THE KANSAS STATE BOARD OF NURSING

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

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NOV 19 2015

KSBN

**IN THE MATTER OF
Tonya Hogan**

**License No. 23-35481-122
Case No. 14-1388-9**

PETITION

COMES NOW the petitioner, the Kansas State Board of Nursing, by and through Assistant Attorney General assigned to the Board, Bryce D. Benedict, and for its cause of action states that:

1. Respondent, Tonya Hogan, is licensed to practice nursing in Kansas through December 31, 2016. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 321 Sherman Street, Emporia, KS 66801.
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 et seq., 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.

STATEMENT OF FACTS

5. The facts below are common to all counts:
 - (a) On February 6, 2015 the Kansas State Board of Nursing referred the respondent to KNAP in connection with a prior alcohol related offence.
 - (b) Respondent underwent an evaluation with Corner House, Inc., in which she denied alcohol or drug use.

- (c) Respondent signed a one year contract with KNAP on April 8, 2015.
- (d) The Respondent underwent a drug screening on April 16, 2015 which was positive for methamphetamine. Respondent subsequently admitted to the investigator for the Kansas State Board of Nursing that she had a history of using methamphetamine, specifically that she and her boyfriend would hire a babysitter on weekends and then go to a friend's house to use methamphetamine all weekend.
- (e) Respondent failed to report for a KNAP mandated April 27, 2015 drug screening.
- (f) Respondent signed a three year contract with KNAP on May 5, 2015.
- (g) Respondent represented on May 11, 2015 that the only time she smoked a bowl of methamphetamine was on weekends, but also that she smoked a bowl on April 16, 2015. April 16, 2015 was a Thursday.

VIOLATIONS

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

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.

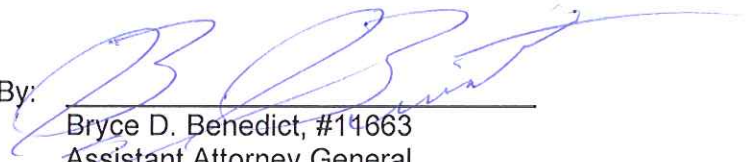
Count 2: K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110, to be guilty of unprofessional conduct as defined by rules and regulations of the board; to wit: failing to complete the requirements of the impaired provider program of the Board.

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.

Respectfully submitted,

Derek Schmidt
Kansas Attorney General

By:



Bryce D. Benedict, #11663
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612