

**BEFORE THE KANSAS STATE BOARD OF NURSING**

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

FILED

FEB 27 2015

**IN THE MATTER OF MARY JANE BARBA**

**License No. 23-36338-082**

KSBN

**Case No. 14-1360-8**

**SUMMARY ORDER**

NOW ON THIS 27<sup>th</sup> day of February 2015, 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 proposed to find facts and take disciplinary action against the renewal application of Licensee by way of Summary Order as provided by K.S.A. 77-537.

**FINDINGS OF FACT**

1. Licensee is licensed to practice nursing in the state of Kansas. The Board has jurisdiction over the Licensee and the subject matter of this action.
2. Licensee's address of record is 3009 SE Illinois Topeka, Kansas 66605.
3. On or about 29th day of January, 2015, the Board reviewed this case.
4. Review of the information gathered by the Board revealed the following information upon which this action is based.
5. According to a report:
  - a. It is alleged that while licensee was applying for a position at Stormont Vail, licensee had a positive UDS Pre-employment for Percocet on the 7<sup>th</sup> day of May, 2014
  - b. Licensee did not have a prescription for this medication.
  - c. Licensee forged a letter from a Dillon's Pharmacist stating her prescription for Lortab was accidently filled with Percocet.
  - d. Pharmacist denied writing the letter dated 15<sup>th</sup> day of May, 2014.
  - e. K-tracs report show licensee has never got meds filled at SE Dillon's pharmacy.

### CONCLUSIONS OF LAW

1. 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 authorization, if the Licensee, licensee or holder of a certificate of qualifications or authorization is found to have violated the Nurse Practice Act. The above fact findings established evidence that the Licensee violated the following provisions of the Nurse Practice Act:

Count 1: K.S.A. 65-1120(a)(6), unprofessional conduct, by drug diversion K.A.R. 60-3-110(n) diverting drugs, supplies or property of any patient or agency;

Count 2 K.S.A. 65 1120(a)(1) unprofessional conduct by fraud or deceit in practicing nursing.

Count 3: K.S.A. 65-1120(a)(4) unable to practice with skill and safety due to current abuse of drugs or alcohol.

Count4: K.S.A. 65-1120(a)(6), unprofessional conduct, by inaccurately recording, falsifying or altering documents.

2. Licensee's conduct described herein violated the Kansas Nurse Practice Act and renders the Licensee non-qualified for obtaining a renewal of his/her license.
- 3 K.S.A. 77-511(a)(2)(A) of the Kansas Administrative Procedure Act authorized by use of the 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 opportunity to participate to persons other than the parties.
- 4 The role of the Kansas State Board of Nursing is to protect citizens of Kansas.

### POLICY STATEMENT

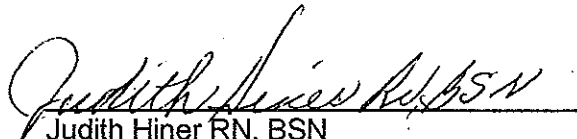
1. Drug usage without a prescription poses a danger to patients and the healthcare system as a whole.
2. Dishonesty and forging documents to cover such usage damages the nursing profession and is a breach of the public trust placed with a nurse.

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

1. **Licensee's license to practice nursing in the state of Kansas is revoked.**
2. **Upon reinstatement in addition to the submission of the proper forms, fees and documentation of 30 hours of CNE, the Licensee will be required to submit proof of completion of a course of CNE that teaches about the Kansas Nurse Practice Act.**

Pursuant to K.S.A. 77-537, the decision, which is called a Summary Order, is subject to your request for 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.

  
Judith Hiner RN, BSN  
Investigative Committee, Chair  
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

On the 27<sup>th</sup> day of February, 2015, I deposited a copy of this SUMMARY ORDER with the United States Postal Service, postage pre-paid, addressed to:

Mary Jane Barba  
3009 SE Illinois  
Topeka, Kansas 66605



Michael R. Fitzgibbons #12287  
Assistant Attorney General