

**BEFORE THE KANSAS STATE BOARD OF NURSING**

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

FILED

JAN 06 2015

**IN THE MATTER OF Teresa "Teri" Jo Murphy**

KSBN

**License No. 23-36855-012 (Reinstatement)**

**Case No. 13-1725-9 and 09-345-9**

**SUMMARY ORDER**

Now this 6<sup>th</sup> day of January, 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 proposes to find facts and take disciplinary action against the registered nurse endorsement application of Teresa Jo Murphy (Reinstatement Applicant) by way of Summary Order as provided by K.S.A. 77-537.

**FINDINGS OF FACT**

1. Applicant submitted a reinstatement application to practice nursing in the state of Kansas. The Board has jurisdiction over the Applicant and the subject matter of this action.
2. Applicant's address of record is 411 N Poplar St, Abilene, KS 67410.
3. On or about 09/07/2013, the Board received Applicant's reinstatement application and the required \$70.00 fee requesting a license to practice nursing in the state of Kansas.
4. On or about 10/17/2013 Applicant submitted proof of 30 hours of approved Continuing Nursing Education (CNE) within the appropriate 2 year time frame (9-8-11 through 9-7-13).
5. Review of the reinstatement application and other information gathered by the Board revealed the following information upon which this action is based.
  - (a) On or about 05/13/2009 Case 09-345-9 was opened to review Applicant's (then a current licensee) conduct including diversion of narcotics and possible alcohol and or drug addiction/abuse. This investigation resulted in a Board referral to the Kansas Nurse Assistance Program (KNAP) whether entered voluntarily or by action of the Attorney General's office. On or about 11/20/2009 KNAP notified the Board that the Applicant had failed to obtain the required evaluation or sign releases of information as required by the Statement of Understanding between KNAP and the licensee. The file was referred to the Attorney General's office for filing of a discipline matter. On or about 01/31/2010 and prior to the filing of a discipline case the Applicant allowed her Kansas nursing license to lapse.
  - (b) On or about 10/21/2013 Case 13-1725 was opened to review applicant's conduct subsequent to 05/13/2009. Applicant has been convicted of the following crimes: 12/14/2009 DUI, 03/16/2010 DUI, 04/19/2010 disorderly conduct, 05/15/2010 criminal trespass and obstruction of official duty, 11/14/2010 pedestrian under the influence, 10/31/2011 failure to possess a driver's license on one's person. Applicant has received multiple driver's license restrictions and revocations related to the

above referenced crimes and has had an interlock device placed on her automobile. Applicant has violated her probation agreements with the criminal courts.

- (c) On or about 12/05/2013 Applicant was again referred to the KNAP program with a condition that she was required to comply with all program requirements and maintain sobriety for a period of 6 months prior to the reinstatement of her Kansas license. On or about 03/14/2014 Applicant's urine drug screen tested positive for Morphine for which she had no current lawful prescription or for which any need or condition had been revealed to the Board or KNAP as required. On or about 04/30/2014 the Board extended/continued the Applicant's participation in the KNAP program for a 2<sup>nd</sup> time for another 6 months with the same conditions before reinstatement of a license would be considered or granted. On or about 06/06/2014 Applicant's urine drug screen tested positive for Butalbital for which she had no current lawful prescription or any need or condition had been revealed to the Board or KNAP as required. On or about 08/20/2014 the Board extended/continued for a 3<sup>rd</sup> time the Applicant's participation in the KNAP program for another 6 months with the same conditions before reinstatement of a license would be considered or granted. On or about 10/07/2014 Applicant's urine drug screen when tested had a low creatine level for a 3<sup>rd</sup> time which is suggestive of excessive fluid intake prior to sample collection. Applicant had additional tests ordered and was instructed as to acceptable measures of future urine drug screens. On or about 12/15/2014 applicant notified KNAP of her intent to drop out of the program. On or about 12/17/2014 KNAP closed the file for Applicant and ceased to monitor her.
- (d) Applicant is unable to maintain or demonstrate even a minimal amount of time of sobriety despite repeated opportunities allowed by the Board.

#### 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 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. Pursuant to K.S.A. 74-1110 the board of nursing, in addition to any to any other penalty prescribed by law, may assess a civil fine, after proper notice and an opportunity to be heard, against any person granted a license, certificate of qualification or authorization to practice by the board of nursing for a violation of a law or rule and regulation applicable to the practice for which such person has been granted a license, certificate of qualification or authorization by the board.
2. Pursuant to K.S.A. 65-4924 and K.S.A. 65-4925 if the Kansas State Board of Nursing receives a report or complaint filed with such agency relating to a health care provider's inability to practice the provider's profession with reasonable skill and safety due to physical or mental disabilities, including deterioration through the aging process, loss of motor skill or **abuse of drugs or alcohol**, the agency may refer the matter to an impaired provider committee of the appropriate state or county professional society or organization and may contract an appropriate state or county professional society to contracting with providers of treatment programs; receive and evaluate reports of suspected impairment from any source; intervene in cases of verified

impairment; refer impaired providers to treatment programs; monitor the treatment and rehabilitation of impaired health care providers; provide post treatment monitoring and support of rehabilitated impaired health care providers; and perform such other activities as agreed upon by the licensing agency and the impaired provider committee; further if the Board has reasonable cause to believe that a health care provider is impaired, the licensing agency may cause an evaluation of such health care provider to be conducted by the impaired provider committee or its designee for the purpose of determining if there is an impairment and the impaired provider committee or its designee shall report the findings of its evaluation to the licensing agency. The reports and records made pursuant to K.S.A. 65-4923 or 65-4924, and amendments thereto, shall be confidential and privileged, including reports and records of any state licensing agency or impaired provider committee of a professional society or organization; and such reports and records shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in any civil or administrative action **other than a disciplinary proceeding by the appropriate state licensing agency.**

3. The above fact findings establish evidence that the applicant's conduct violated the following provisions of the Kansas Nurse Practice Act:

- (a) K.S.A. 65-1120 (a)(4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol;
- (b) K.S.A. 65-1120(a)(6) to be guilty of unprofessional conduct as defined by rules and regulations of the Board, K.A.R 60-3-110 (n) diverting drugs of an patient or agency
- (c) K.S.A. 65-1120(a)(6) to be guilty of unprofessional conduct as defined by rules and regulations of the Board, K.A.R 60-3-110 (s) failing to complete the requirements of the impaired provider program of the Board
- (d) K.S.A. 65-1120(a)(3), Professional Incompetency as defined by K.S.A. 65-1120(e)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

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.

#### Policy Statements

1. The role of the Kansas State Board of Nursing is to protect the citizens of Kansas.
2. While the practice of health care is not an exact science impairments of any kind may interfere with a health care provider's judgment and actions and subject a patient to a potential harm in the practice of the health sciences.

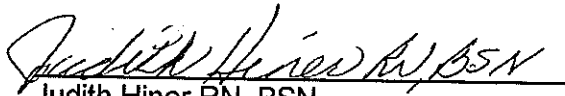
3. As set forth in K.S.A 65-4929 the legislature of the state of Kansas recognizes the importance and necessity of providing and regulating certain aspects of health care delivery in order to protect the public's general health, safety and welfare. Implementation of risk management plans and reporting systems as required by K.S.A. 65-4922, 65-4923 and 65-4924 and peer review pursuant to K.S.A. 65-4915 and amendments thereto effectuate this policy.

**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.

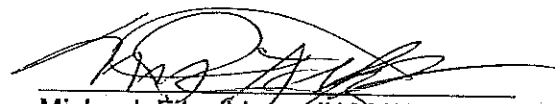
Pursuant to K.S.A. 77-531, if the Summary Order is served by mail, three days are added to the time limits set out above in calculating timely receipt of an appeal request.

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

CERTIFICATE OF SERVICE

I certify that on the 6<sup>th</sup> day of January, 2015, 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:

Teresa "Teri" Jo Murphy  
411 N Poplar St  
Abilene, KS 67410

  
Michael Fitzgibbons #12287  
Special Assistant Attorney General