

BEFORE THE KANSAS STATE BOARD OF NURSING

IN THE MATTER OF
Elizabeth N. Brown
License No. 23-37871-112

Case No. 09-854-1
OAH No. 12BN0001

INITIAL ORDER

Now on this 31st day of July 2014, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing (Board). Sandra L. Sharon was duly appointed Presiding Officer pursuant to K.S.A. 77-514. The Petitioner, the Kansas State Board of Nursing, appears by Assistant Attorney General Alma A. Heckler, Disciplinary Counsel for the Board. The Respondent, Elizabeth N. Brown, appears in person.

Findings of Fact

1. On or about June 28, 2011, the Respondent entered into a Final Order and Consent Agreement with the Kansas State Board of Nursing. This Order suspended the Respondent's license to practice nursing and limited the scope of her practice.
2. One of the terms of the Final Order and Consent Agreement was that after the Respondent successfully completed twelve months in the Kansas Nurse Assistance Program (KNAP) the suspension on her license would be stayed.
3. The suspension on the Respondent's license to practice nursing was in fact stayed on January 24, 2013.
4. Within the Final Order and Consent Agreement, the parties agreed that after the suspension on the Respondent's license to practice nursing is stayed, a violation of the agreement would result in the stay of the Respondent's license being lifted for six months. By a corrected letter from the Kansas Nurse Assistance Program dated April 9, 2014 the Respondent and the Board were notified that the Respondent's KNAP case was closed for a third event of non-compliance. This is a violation of the Final Order and Consent Agreement.
5. As a result of the Respondent's KNAP case being closed for non-compliance, the Board seeks to lift the stay on the suspension of the Respondent's license to practice nursing in the State of Kansas.

Conclusions of Law

1. It is a violation of the Kansas Nurse Practice Act to engage in unprofessional conduct by failing to complete the requirements of the Impaired Provider Program of the Board. K.S.A. 65-1120(a)(6) and K.A.R. 30-3-110(s).

2. It is a violation of the Kansas Nurse Practice Act to fail to comply with any disciplinary order of the Board. K.S.A. 65-1120(a)(6) and K.A.R. 30-3-110(r). The Final Order and Consent Agreement of June 28, 2011 provides in part, as follows:

17. The Kansas State Board of Nursing will not take additional disciplinary action against Respondent's nursing license for the violations stated above as long as Respondent completes each of the following conditions and requirement:

f. Respondent shall participate in and complete the reasonable recommendations and requirements of the Kansas Nurses Assistance Program(KNAP). Respondent shall sign releases of information necessary for KNAP to evaluate and monitor Respondent and for KNAP to report information to the Board, Attorney General's Office, and the Office of Administrative Hearings. Respondent will be deemed to have completed the KNAP program when KNAP issues written notification that Respondent has completed the program. If Respondent is not already enrolled, Respondent must enroll in the KNAP program within thirty (30) days of entering this agreement. Noncompliance with KNAP is a violation of this agreement.

21. Respondent acknowledges and agrees that upon a first finding of Respondent not complying with any of the conditions or requirements of this Final Order and 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. Respondent will not be allowed to practice nursing in the state of Kansas during the period of suspension. Respondent acknowledges and agrees that all conditions and requirements of this Final Order and Consent Agreement remain in effect during the period of suspension.

Discussion

1. The Respondent violated her Final Order and Consent Agreement with the Board by failing to comply with her agreement with KNAP. Her KNAP case was closed by a third letter of non-compliance dated April 9, 2014.
2. Pursuant to the Agreement the Respondent has with the Board, the first violation of the Final Order and Consent Agreement results in lifting the stay on her license suspension for six months. The result of the lift of the stay is that the Respondent's license to practice nursing is suspended.
3. This being the Respondents first violation of the Final Order and Consent Agreement there shall be a lift of the stay of suspension of her license suspension for six months.

Order

1. The Board's motion to show cause (or motion to lift stay) is hereby granted.
2. The stay on the suspension of the Respondents license to practice nursing in the State of Kansas is lifted after six months or until the Respondent is in compliance with Final Order and Consent Agreement she has with the Board, whichever is longer.
3. Cost of this action shall be assessed against the Respondent in the amount of \$70.

Appeal Rights and Other Administrative Relief

Pursuant to K.S.A. 77-527, either party may request a review of this initial order by filing a petition for review with the Kansas State Board of Nursing. A petition for review must be filed within 15 days from the date this initial order was served. 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: Mary Blubaugh, Executive Director, Board of Nursing, Landon State Office Building, 900 SW Jackson, Suite 1051, Topeka, KS 66612-1230.

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.

Pursuant to K.S.A. 77-530, if a request for review is not made in the time and manner stated above, this initial order shall become effective as a final order 30 days after service.



Sandra L. Sharon
Administrative Law Judge/Presiding Officer
Office of Administrative Hearings
1020 S. Kansas Ave.
Topeka, KS 66612
Telephone: 785-296-2433

CERTIFICATE OF SERVICE

On August 15, 2014, 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:

✓ Alma Heckler
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:

Elizabeth N. Brown
221 Clay
Jetmore, KS 67854

Sharon J. Miles
Staff Person
Office of Administrative Hearings