

BEFORE THE KANSAS STATE BOARD OF NURSING

FILED #1012
MAR 15 2013 pas
KSBN

IN THE MATTER OF
Denise Renee Pace
License No. 23-39100-011

Case No. 11-1765-9
OAH No. 13BN0017

INITIAL ORDER

Now on this 19th day of February 2013, 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 Michael R. Fitzgibbons, Disciplinary Counsel for the Board. The Respondent, Denise Pace, appears in person.

Findings of Fact

1. On or about November 16, 2011, the respondent, on the recommendation of her employer, self-referred to the Kansas Nurse Assistance Program (KNAP). The respondent reported that she was hearing voices.
2. The respondent failed to follow through with KNAP and her case was closed due to noncompliance.
3. On or about July 19, 2012 the respondent was arrested and charged with the unlawful possession of a controlled substance, a level four felony.
4. The respondent was found guilty and on October 1, 2012 of these charges and sentenced to eighteen months intense supervised probation. Currently, the respondent is still under intense supervised probation.
5. The respondent claims that it was because of methamphetamine use that she was hearing voices. As of the date of the hearing the respondent indicated that she no longer heard voices.
6. It was the respondent's testimony that she is clean and doing what she needs to do. However, there is no showing that she is in drug and alcohol treatment, that she has been rehabilitated, or that she no longer experiences the symptoms that caused her to seek help from KNAP.

Applicable Law

1. On a showing that there has been a violation of the Kansas Nurse Practice Act, the Board has the authority to deny, revoke, limit, or suspend any license or application for license to practice nursing in the State of Kansas. K.S.A. 65-1120(a).

2. It is a violation of the Kansas Nurse Practice Act to willfully violate the Kansas Nurse Practice Act by failing to complete the requirements of the impaired provider program of the Board. K.S.A. 65-1120(a)(7) and K.A.R. 60-3-110(s).
3. It is a violation of the Kansas Nurse Practice Act to be unable to practice nursing with skill and safety due to current abuse of drugs or alcohol. K.S.A. 65-1120(a)(4).

Discussion

1. By failing to follow through with KNAP or show any evidence of drug and alcohol treatment, the respondent has violated the Kansas Nurse Practice Act. K.S.A. 65-1120(a)(7) and K.A.R. 60-3-110(s).
2. It was the respondent's testimony that she no longer hears voices or is unable to practice nursing due to use of drugs and/or alcohol. However, other than the respondent's statement, there is no proof that the respondent is free of drugs and/or alcohol and safe to practice nursing. The respondent has violated K.S.A. 65-1120(a)(4) by being unable to demonstrate her ability to practice nursing with skill and safety due to current abuse of drugs or alcohol. This is a violation of K.S.A. 65-1120(a)(4).

Conclusion

1. The Board has shown that the respondent cannot be deemed able to practice nursing with skill and safety due to use of drugs and alcohol and her failure to follow through with the Board's treatment program. The Board's petition to revoke the respondent's license to practice nursing in the State of Kansas is affirmed.
2. Cost of this action shall be assessed against the respondent in the amount of \$70.00 pursuant to K.S.A. 65-1120(d).

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.

[Redacted]
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 March 14, 2013, 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:

Michael R. Fitzgibbons
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:

Denise Renee Pace
1016 Mound
Atchison, KS 66002

[Redacted Signature]
Staff Person

Office of Administrative Hearings