

December 3, 2007

Gudrun U. Webb
612 W. 3rd
Junction City, KS 66441

Case No. 07-1010-9
License No. 24-029270-121

SUMMARY ORDER

Dear Ms. Webb:

The Investigative Committee of the Kansas State Board of Nursing (KSBN) has reviewed your application materials. It is the decision of the Board that your reinstatement application to practice nursing as a licensed practical nurse in Kansas is denied. This denial is based upon the following:

FINDINGS OF FACT

1. On or about April 23, 2007, in KSBN case number 05-113-9, Applicant surrendered her license to practice nursing in the state of Kansas pursuant to a Consent Agreement to Surrender and Revoke License and Final Order. In the Consent Agreement to Surrender and Revoke License and Final Order, Applicant was found to have committed the following violations of the Kansas Nurse Practice Act:

- Count 1: K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(1), one or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board.
- Count 2: 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 3: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (c), failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient.
- Count 4: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (n), diverting drugs, supplies, or property of any patient or agency.
- Count 5: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (s) failing to complete the requirements of the impaired provider program of the board.

The above violations were based on the following finds of fact:

- (a) Licensee has a history of mental illness, including depression and or anxiety.

- (b) On or about February 26, 2003, while licensee was employed by Mercy Regional Health Center, Manhattan, Kansas, licensee diverted Morphine from the facility for her personal use and injected this drug while on duty. On or about February 27, 2003, licensee had a positive urine drug screen for Morphine. Licensee was referred to the Kansas Nurses Assistance Program (KNAP) on or about March 5, 2003. [REDACTED]
- (c) On or about the following dates, licensee presented to work and/or worked at the above Manhattan, Kansas facility while impaired: February 20, 2003; March 5, 2003; September 5, 2003; March 10, 2004; and September 10, 2004.
- (d) On or about March 10, 2004, while licensee was employed by the above facility, licensee had a positive urine drug screen for Alprazolam (Xanax).
- (e) [REDACTED]
- (f) On or about August 8, 2006, Licensee entered a Consent Agreement and Final Order with the Kansas State Board of Nursing . A condition of the Consent Agreement and Final Order required the Licensee to participate in and complete KNAP.
- (g) In a letter dated November 9, 2006, Licensee informed the Kansas State Board of Nursing that she wished to "forfeited" her license to practice nursing in Kansas and that she would not complete the KNAP program.
- (h) [REDACTED]

On November 2, 2007, the Kansas State Board of Nursing received Applicant's application for reinstatement of her license to practice nursing in the state of Kansas as a Licensed Practical Nurse.

CONCLUSIONS OF LAW

2. 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 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. The above fact findings establish evidence that the applicant violated the following provisions of the 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), unprofessional conduct by K.A.R. 60-3-110(r), failing to comply with any disciplinary order of the board.
- (c) K.S.A. 65-1120(a)(6), unprofessional conduct by 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 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.

Per *Vakas v. Kansas State Board of Healing Arts*, 248 Kan. 589 (1991), the factors to be considered in determining whether a license should be reinstated after a disciplinary finding has been made are the following:

- The present moral fitness of the petitioner;
- The demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought the profession;
- The extent of petitioner's rehabilitation;
- The nature and seriousness of the original misconduct;
- The conduct subsequent to discipline;
- The time elapsed since the original discipline;
- The petitioner's character, maturity, and experience at the time of the original revocation;
- The petitioner's present competence in medical skills.

3. K.S.A. 77-511(a)(2)(A) of the Kansas Administrative Procedure Act authorizes the use of summary proceedings by a state agency when denying an application in whole or in part.

4. Your conduct described herein violates the Kansas Nurse Practice Act.


5. The role of the Kansas State Board of Nursing is to protect citizens of Kansas.

6. If you wish to dispute this matter, contact the Board immediately by following the procedure for requesting a hearing. A copy of your application will be sent to you upon request.

7. 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 above, this Summary Order becomes effective and final upon the expiration of the time for requesting a hearing.


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

CERTIFICATE OF SERVICE

I certify that on the 3rd day of December, 2007, 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:

Gudrun U. Webb
612 W. 3rd
Junction City, KS 66441



Mark A. Knight, #12183
Assistant Attorney General