

FILED
JUN 22 2010
KSBN

BEFORE THE KANSAS STATE BOARD OF NURSING

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

**IN THE MATTER OF
JAMES H. SINGH
License No. 24-019270-052**

Case No. 05-1061-7

SUMMARY ORDER

The Investigative Committee of the Kansas State Board of Nursing (KSBN) has reviewed Applicant's application materials and on June 22, 2010, it is the decision of the Board that Applicant's 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 11/25/2005 Applicant was employed and on duty at The Sweet Life of Rosehill (Facility), Shawnee, Kansas. Facility staff observed that on or about 11/25/2005, Applicant began his shift at approximately 2:00 PM and at that time Applicant appeared to be functioning normally. Around 6:00 PM staff observed that Applicant was making nonsensical statements with slurred speech. Staff observed other odd behavior on the part of the Applicant including eating rapidly, moving quickly, staring and rapid eye movements.

GT, a terminally ill resident of the Facility, advised that on or about 11/25/2005 at approximately 10:00 PM, Applicant came into her room to change the bandage on a wound GT had in her groin area. GT advised that Applicant was acting strange, mumbling and not making sense.

GT stated that with gloved hands Applicant took the bandage off her wound. Applicant then sprayed her with some solution and told her it was going to be cold. Applicant then took his gloves off. GT questioned Applicant about needing to have the gloves on and Applicant did not answer. According to GT Applicant took a long piece of gauze and started moving it in an up and down motion. GT asked Applicant what he was doing and Applicant state he was cleaning GT in a different way. GT stated Applicant then went to the front of her and put his finger in her vagina. GT advised that Applicant then asked her if that hurt. GT stated Applicant placing his finger in her vagina was inappropriate and unwanted.

GT advised that while Applicant was in her room, Applicant was slamming the drawers of the treatment cart. GT said Applicant pulled something out and asked her if she was allergic to something. GT advised that Applicant opened the item with scissors and then left the room.

GT stated Applicant left her wound open. GT said she put on the call light and after about 30 minutes a different nurse came into her room.

BC, a staff member made contact with Applicant at around 10:20 PM the same night. When BC contacted Applicant he was not able to finish his sentences and his gait while walking was not steady. BC told Applicant that he needed to leave the Facility. After walking Applicant out of the Facility, BC was contacted by other staff and told that GT was calling for assistance via the call light. BC went to GT's room and found that GT's wound was open. BC also noted that the treatment cart was in disarray.

On or about 11/26/2005 Applicant arrived at the Facility. Applicant was interviewed about his behavior on or about 11/25/2005. Applicant denied having any problems the night before. Applicant advised he changed the dressing on GT's wound as he normally did. Applicant denied touching GT's vagina. Applicant agreed to submit to a urine drug screen. The urine drug screen was positive for Amphetamine and Cannabis.

Facility policy requires two appropriate and qualified staff members to count narcotics every shift. On or about 11/25/05 Applicant failed to complete the narcotics count. Facility policy requires documentation of treatments administered to residents. On or about 11/25/05 Applicant failed to document treatments administered to GT.

On or about June of 1993 Applicant was convicted of Battery, a misdemeanor, in Johnson County, Kansas District Court case number 93CR614.

On or about 7/12/00 Applicant submitted a reinstatement application to the Kansas State Board of Nursing. In the application Applicant answered "No" to the question asking have you ever been convicted of a felony or misdemeanor.

In July of 2002 Applicant was charged in the District Court of Linn County, Kansas, case number 02CR203, with Possession of Marijuana and Possession of Drug Paraphernalia, both misdemeanors. Thereafter Applicant entered a Diversion Agreement regarding the two charges. In the Diversion Agreement Applicant stipulated to the truth of the allegations contained in the two charges.

On or about 6/18/02 Applicant submitted a renewal application to the Kansas State Board of Nursing. In the application Applicant answered "No" to the question asking have you ever been convicted of a misdemeanor.

On or about 3/6/2003 Applicant was convicted of Issuing a Worthless Check, a misdemeanor, in Bourbon County, Kansas District Court case number 03CR87.

On or about 6/4/2004 Applicant submitted a reinstatement application to the Kansas State Board of Nursing. In the application Applicant answered "Yes" to the question asking have you ever been convicted of a misdemeanor.

On or about 5/31/06 Applicant's license to practice nursing in Kansas lapsed. Applicant submitted an application to the Board for reinstatement as a licensed practical nurse in the State of Kansas on or about 10/3/2006. Applicant's reinstatement was denied by summary order in January, 2007.

On or about June 1, 2010, Applicant submitted another application for reinstatement to the Board.

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.

Applicant has not shown he has met the requirements of *Vakas* and should not be reinstated.

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 previously violated the following provisions of the Nurse Practice Act:

(a) K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (f), commission of any act of sexual abuse, sexual misconduct, or sexual exploitation related to the licensee's practice.

(b) K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (e), physical abuse, which shall be defined as any act or failure to act performed intentionally or carelessly that causes or is likely to cause harm to a patient.

(c) 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.

(d) 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.

(e) K.S.A. 65-1120(a)(1), to be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing.

(f) Applicant has not shown that he has met the requirements of *Vakas* nor has he demonstrated any rehabilitation or change in behaviors.

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.

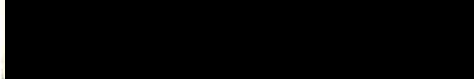
5. The role of the Kansas State Board of Nursing is to protect citizens of Kansas.

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

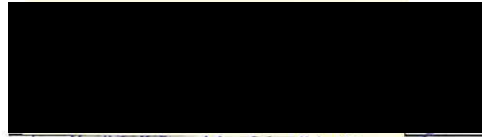
THIS REQUEST MUST BE SUBMITTED WITHIN FIFTEEN (15) DAYS FROM THE DATE OF THIS ORDER. If a hearing is not requested in the time and manner stated above, this Summary Order becomes effective and final upon the expiration of the time for requesting a hearing.


Janet Jacobs, LPN
Investigative Committee, Chair
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

I certify that on the 22nd day of June, 2010, 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:

James H. Singh
720 N. Purdom
Olathe, KS 66061



Alma A. Heckler, #11555
Assistant Attorney General