

Alma Heckler

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KSBN

BEFORE THE KANSAS STATE BOARD OF NURSING

IN THE MATTER OF
Rachel Messick
License No. 24-20738-082

Case No. 11-1497-7
OAH No. 13BN0062

INITIAL ORDER

Now on this 7th 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 as 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, Rachel Messick, appears in person.

Findings of Fact

1. The respondent was previously disciplined by the Board in case number 07-65-7 for physical abuse of a patient. The respondent completed education on Resident's Rights, Patient Abuse, difficult patients, and the Kansas Nurse Practice Act.
2. Further, the respondent was disciplined by the Board in case number 09-537-7 after the respondent used a needle on a patient that a third individual had been stuck with. The respondent completed education on Critical Thinking, Hepatitis, Ethics, HIV/AIDS, and the Kansas Nurse Practice Act.
3. On or about August 30, 2011, the respondent was terminated by her employer, Medical Lodges, in Gardner, Kansas, for failure to report a patient fall, failure to assess the patient, and failure to document the fall.
4. While employed by Medical Lodge from June 28, 2010 through August 30, 2011, the respondent was given verbal warnings and in-service training for the following actions:
 - On 1/17/2011, respondent failed to document prn medication given;
 - On 05/20/2011, respondent gave Lortab five (5) times but did not document it;
 - On 05/24/2011, respondent failed to document prn medications;
 - On 08/16/2011, respondent failed to give narcotics as scheduled but documented they were given for three residents, the narcotic was not signed out on the narcotic count sheet.

Applicable Law

1. On showing that the Kansas Nurse Practice Act has been violated, the Kansas State Board of Nursing has the authority to deny, revoke, limit, or suspend any license to

practice nursing or deny any application to practice nursing in the State of Kansas. K.S.A. 65-1120(a).

2. Inaccurately recording, falsifying or altering any record of a patient or agency of the Board is unprofessional conduct K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(d).
3. Professional incompetency is cause for the Board to apply disciplinary actions. Professional incompetency includes one or more instances involving failure to adhere to applicable standards of care to a degree which constitutes gross negligence. K.S.A. 65-1120(e)(1).

Discussion

1. When the respondent failed to document prn medications, failed to document giving a resident five (5) Lortabs, and did not give narcotics as scheduled, she violated the Kansas Nurse Practice Act by failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient. This is a violation of K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(c).
2. When the respondent failed to document prn medications, failed to document giving a resident five (5) Lortabs, and did not give narcotics as scheduled, she participated in unprofessional conduct by inaccurately recording, falsifying or altering any record of a patient or agency or Board. This is a violation of K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(d).
3. When the respondent failed to document prn medications, failed to document giving a resident five (5) Lortabs, and did not give narcotics as scheduled, when the respondent struck a patient, used an infected needle on a patient, and failed to assess a patient for falls and document the incident, she committed professional incompetency pursuant to K.S.A. 65-1120(e)(1).
4. The respondent has willfully and repeatedly violated the provisions of the Kansas Nurse Practice Act and is subject to discipline pursuant to K.S.A. 65-1120(a)(7).
5. To have willfully or repeatedly violated the provisions of the Kansas Nurse Practice Act is cause for the Board to take disciplinary action. K.S.A. 65-1120(a)(7).
6. To be guilty of unprofessional conduct as defined by the rules of the Board is grounds for disciplinary action by the Board. Failing to take appropriate action, or to follow policies and procedures in the practice situation designed to safeguard each patient is unprofessional conduct. K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(c).

Order

The respondent has committed numerous violations of the Kansas Nurse Practice Act. The Board's petition to revoke the respondent's license to practice nursing in the State of Kansas is granted.

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.



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 6, 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:

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:

Rachel Messick
1190 Commodore Dr.
Gardner, KS 66030

[Redacted Signature]

Staff Person
Office of Administrative Hearings