

BEFORE THE KANSAS STATE BOARD OF NURSING
Landon State Office Building, 900 S.W. Jackson #1051
Topeka, Kansas 66612-1230

FILED
JUN 29 2012 #282 pab
KSBN

IN THE MATTER OF
DONNA M. HENDERSON
License No. 24-25853-021

Case No. 07-678-7, 09-878-0

PROPOSED DEFAULT ORDER TO DENY REINSTATEMENT

NOW ON THIS 27th day of June, 2012, petitioner, the Kansas State Board of Nursing, appears by disciplinary counsel, Alma A. Heckler, Assistant Attorney General, for a Hearing on the Petition. Respondent does not appear.


Wherefore, the Presiding Officer finds as follows:

1. Respondent filed a reinstatement application on 3/9/2012 to practice nursing in Kansas. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent was sent a copy of the petition and notice of this hearing to respondent's last known address and service is proper. Respondent does not appear.
3. Petitioner moves for issuance of a proposed default order revoking respondent's license. The petitioner's request is granted by default pursuant to K.S.A. 77-520.
4. The petition is hereby granted and incorporated into this order as if set forth herein. Respondent violated the Nurse Practice Act as alleged in the petition.
5. Per Petitioner's request, Respondent's license to practice nursing is denied. Respondent may not practice nursing in Kansas.
6. Costs of the action of \$70 are assessed to respondent to be paid to the board by cash or money order within 30 days of the effective date of this order.
7. This Proposed Default Order shall become effective seven days after service or ten days after mailing of this order unless the Respondent files a written motion with the Board stating why the Proposed Default Order should be vacated and the order is then vacated.

8. If this Proposed Default Order becomes effective, the Respondent's request for administrative hearing is dismissed pursuant to K.S.A. 77-520(d).

9. Disciplinary counsel shall mail a copy of this proposed default order to respondent's last known address.

IT IS SO ORDERED.



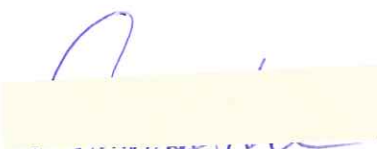
Sandra Sharon, Presiding Officer
Office of Administrative Hearings
1020 S Kansas Ave.
Topeka, KS 66612-1327

NOTICE

Pursuant to K.S.A. 77-527, either party may request a review of this order by filing a petition for review with the Kansas State Board of Nursing. The petition for review shall state its basis. A petition for review must be filed within 7 days from the date this order becomes effective. 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: State Board of Nursing - Legal Division, Landon State Office Building, 900 SW Jackson, Ste 1051, Topeka, KS 66612-1230.

Pursuant to K.S.A. 77-530, if neither party requests a review by the Kansas State Board of Nursing, then this initial order becomes final and binding on both parties on the 30th day following its service.

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.




Alma A. Heckler, #11555
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson, Suite #1051
Topeka, KS 66612-1230
785-296-4325

CERTIFICATE OF SERVICE

I certify that on the 29th day of June, 2012, the foregoing copy of the PROPOSED DEFAULT ORDER TO DENY REINSTATEMENT was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Donna M. Henderson
2244 E. 77th Terrace
Kansas City, Missouri 64132



Alma A. Heckler, #11555
Assistant Attorney General

BEFORE THE KANSAS STATE BOARD OF NURSING

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

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MAY 11 2012 per
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**IN THE MATTER OF
DONNA M. HENDERSON
License No. 24-25853-021**

Case No. 07-678-7, 09-878-0

PETITION

COMES NOW the petitioner, the Kansas State Board of Nursing, by and through Assistant Attorney General assigned to the Board, Alma A. Heckler, and for its cause of action states that:

1. Respondent, Donna M. Henderson, filed a reinstatement application on or about 3/9/2012. Her nursing license was revoked after a hearing on or about May 7, 2010 and the Board upheld the order and declined to review on or about May 21, 2010. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 2244 E. 77th Terrace, Kansas City, Missouri 64132.
3. After an investigation, the Board's investigative committee found reasonable grounds to believe that the respondent violated the Kansas Nurse Practice Act, K.S.A. 65-1120, and referred this matter for further proceedings.
4. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 et seq. to examine, license and renew license for duly qualified applicants and may limit, deny, suspend or revoke a license or authorization to practice nursing, may issue a public or private censure and levy administrative fines consistent with K.S.A. 74-1110, if a violation of K.S.A. 65-1120(a) is established.

FACTS COMMON TO ALL COUNTS

5. The facts below are common to all counts:
 - (a) Respondent's license was revoked based on the following facts:

Kansas State Board of Nursing (KBON) Case No. 07-678-7, the respondent failed to pass a pre-employment drug test on or about 6/12/07. Respondent tested positive for Marijuana. Respondent was not offered a job position by Maxim Healthcare Services. Respondent was referred to the Kansas Nurse Assistance Program (KNAP) on or about June 18, 2009 by KBON.

In KBON Case No. 09-878-0 the Board received notice from KNAP that the respondent had failed to pay for an evaluation completed by the Chautauqua Counseling Center at the request of KNAP. Respondent failed to make any further contact with KNAP. Respondent's KNAP case was closed on 8/28/09.

(b) Respondent's license was revoked after a hearing on the matter held on April 7, 2010. The presiding officer found that the Respondent's actions amounted to unprofessional conduct pursuant to K.S.A. 65-1120 and K.A.R. 60-3-110(s) and that she failed to follow through with the Impaired Provider Program as directed by the Board.

(c) The Respondent requested a review by the board of the initial order and the board declined to reverse the presiding officers decision to revoke filed on May 7, 2010. Respondent was ordered to relinquish her license and pay \$70.00 in costs and fees. Respondent did not relinquish her license card and did not pay the \$70.00 costs and fees.

(d) Respondent has contacted the board and KNAP several times since her license was revoked, insisting that her license was never revoked. She reported she had applied for nursing jobs but was not hired because she did not have a license. She reported she thought it was unfair for the Board to revoke her license and to deny her employment in nursing in Kansas.

6. Per Vakas v. Kansas State Board of Healing Arts, 248 Kan. 589 (1991), 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.

The Respondent presents no evidence to demonstrate why her license should be reinstated at this time. Respondent does not provide proof of treatment, consciousness of the wrongful conduct or any understanding of the nature and seriousness of the original misconduct.

VIOLATIONS

7. Respondent has violated the Kansas Nurse Practice Act as follows:

Count 1: 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 2: K.S.A. 65-1120(a)(6), unprofessional conduct, by failing to complete the requirements of the impaired provider program of the board; K.A.R. 30-3-110 (s).

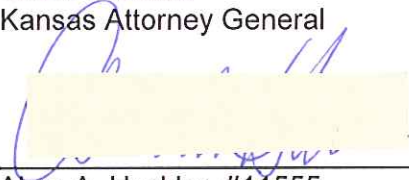
Count 3: K.S.A. 65-1120(a)(8), to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States....

WHEREFORE, petitioner requests a finding that the respondent has violated the Nurse Practice Act, that respondent's application to practice nursing in Kansas be denied, and that costs of this action be assessed to the respondent in the amount of \$70.00.

Respectfully submitted,

Derek Schmidt
Kansas Attorney General

By:


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Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612