

BEFORE THE KANSAS STATE BOARD OF NURSING

IN THE MATTER OF
Desiree Irwin
License No. 24-34015-011

Case No. 13-766-7
OAH No. 14BN0118

INITIAL ORDER

Now on this 11th day of August 2014, 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 Alma A. Heckler, Disciplinary Counsel for the Board. The Respondent, Desiree Irwin, appears in person.

Findings of Fact

1. The Respondent is licensed as an LPN in the State of Kansas. She was employed by Firstat Nursing, a private duty agency in Overland Park, Kansas from September 7, 2007 to February 18, 2013. On or about February 7, 2013, the Respondent started a shift at 10:30 p.m. in a home of a pediatric patient with a mechanical ventilator. At approximately midnight the Respondent was found sleeping by the patient's father. The Respondent was relieved of her duties and at approximately 12:30 the patient's father called Firstat to report that the Respondent was no longer in the home.
2. The Respondent was to submit her time sheet and clinical notes to her employer with the same from other dates in the pay period. However, the time sheet and clinical notes for February 7, 2013 were missing. The employer requested this documentation from the Respondent. On or about February 18, 2013, the Respondent submitted a time sheet and clinical notes. She documented that she made assessments of her pediatric patient at midnight, 2:00 a.m., and 4:00 a.m. The clinical notes contained documentation regarding vital signs, lung sounds, patient position, intake, output and ventilator measured at tidal volumes, peak inspiration pressure and positive end expiratory pressure from 11:00 p.m. until 5:00 a.m.
3. This was not the first incident of the Respondent failing to adhere to Standards of Care. During her tenure with Firstat she turned off a humidifier on a ventilator and failed to turn it back on. The Respondent said the humidifier was malfunctioning but she failed to trouble shoot the equipment or seek assistance. Another time, the Respondent failed to trouble shoot an insulin pump or seek assistance. At the end of that shift her patient had a blood sugar level higher than 500. This patient was supposed to have blood sugar levels taken every two hours. Another time an alarm on a patient's medical equipment kept sounding. The patient's parents entered the room and found the Respondent panicked. The patient's parents had to assume the patients care. Finally, the Respondent allowed a pediatric patient to roll off of a surface when she left the child to get wipes.

Conclusions of Law

1. The Board is authorized to conduct examinations, license and renew licenses to practice nursing. It is also authorized to limit, suspend, or revoke a license for proper legal cause. K.S.A. 74-1106(c)(4).
2. Reasons to deny, revoke, limit, or suspend a license to practice nursing in the State of Kansas are found at K.S.A. 65-1120.
3. It is a violation of the Kansas Nurse Practice Act to engage in unprofessional conduct by failing to follow policies and procedures in the practice situation designed to safeguard each patient. K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(c).
4. It is a violation of the Kansas Nurse Practice Act to engage in unprofessional conduct by inaccurately recording, falsifying, or altering any record of a patient or agency or of the Board. K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(d).
5. It is a violation of the Kansas Nurse Practice Act to have committed professional incompetency by failing to adhere to applicable standards of care to a degree which constitute gross negligence. K.S.A. 65-1120(a)(3) and (e)(1).

Discussion

1. When the Respondent failed to ensure medical equipment and monitors were working properly she failed to follow policies and procedures in the practice situation designed to safeguard each patient. This is a violation of the Kansas Nurse Practice Act at K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(c).
2. When the Respondent submitted a time sheet and clinical notes containing false information she violated the Kansas Nurse Practice Act at K.S.A. 65-1120(a)(6) and K.A.R. 60-3-110(d).
3. When the Respondent failed to ensure medical equipment and monitors were working properly and failed to properly test a patient for blood sugar levels or where she was found sleeping while on duty she committed acts of professional incompetency by failing to adhere to the applicable Standards of Care. These failures constitute gross negligence by the Respondent.

Order

The Board has shown by preponderance of the evidence the allegations set forth in its petition. The Board's petition to revoke the Respondent's license to practice nursing is granted.

Cost of this action shall be assessed to the respondent in the amount of \$70.

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 August 21, 2014, 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:

Desiree Irwin
1651 Winchester Avenue
Kansas City, MO 64126

Sharon J. Miles
Staff Person
Office of Administrative Hearings

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

MAR -7 2014

IN THE MATTER OF

DESIREE IRWIN

License No. 24-34015-011

KSBN

Case No. 13-766-7

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, Desiree Irwin, is licensed to practice nursing in Kansas through 1/31/2015. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 1651 Winchester Ave. Kansas City, Missouri 64126.
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 was employed by Firstat Nursing as an LPN from 9/7/07 to 2/18/2013. Firstat is a supplemental staffing and private duty agency in Overland Park, Kansas.
 - (b) Respondent was assigned as a private duty nurse to a home health pediatric patient with mechanical ventilation. She started her shift at 10:30 pm on 2/7/2013. At 12:30 am on

2/8/2013 she was found by the patient's father sleeping and was sent home. Respondent submitted a clinical note and ventilator flow sheet to her employer, Firststat, for payment.

(c) The clinical note and ventilator flow sheet showed a start time of 10:50 pm and an end time of 5:00 am. Respondent documented assessments of the pediatric patient at midnight, 2:00 am and 4:00 am. The ventilator flow sheet contained detailed documentation of vital signs, lung sounds, patient position, intake, output and ventilator measured tidal volumes, peak inspiratory pressure, and positive expiratory pressure from 11:00 pm to 5:00 am. Respondent left the patient at 12:30 am, after the father of the patient found her sleeping.

(d) Respondent presented the notes and flow sheet and expected payment of the entire shift, even though she was not present after 12:30 am. She was not present to complete the documentation and assess the patient from 12:30 am to 5:00 am.

(e) Respondent was confronted by her employer, Firststat, and verified that she had billed for the period between 12:30 am and 5:00 am, and she was not present to provide those services to the pediatric patient. Her employment was terminated and she was allowed to resign.

VIOLATIONS

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

Count 1: K.S.A. 65-1120(a)(6), unprofessional conduct, by failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient; K.A.R. 60-3-110 (c);

Count 2: K.S.A. 65-1120(a)(6), unprofessional conduct, by inaccurately recording, falsifying, or altering any record of a patient or agency or of the board; K.A.R. 60-3-110 (d);

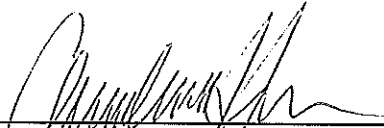
Count 3: K.S.A. 65-1120(a)(3), to have committed an act of professional incompetency as defined in subsection (e); (1) one or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board.

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

Respectfully submitted,

Derek Schmidt
Kansas Attorney General

By:


Alma A. Heckler, #11555
Assistant Attorney General
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900 SW Jackson #1051
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