

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

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**IN THE MATTER OF
ROCHELLE M. RODRIGUEZ
License No. 24-35660-062**

Case No. 12-094-7 and 12-837-0

PROPOSED DEFAULT ORDER TO REVOKING LICENSE

NOW ON THIS 30th day of January, 2015, petitioner, the Kansas State Board of Nursing, appears by disciplinary counsel, Michael R. Fitzgibbons, Assistant Attorney General, for a Hearing on the Petition. Respondent does not appear.

Wherefore, the Presiding Officer finds as follows:

1. Respondent is licensed 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 revoked. 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. Respondent shall immediately forward his or her original Kansas nursing license to the Kansas State Board of Nursing.

8. 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.

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

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

IT IS SO ORDERED.



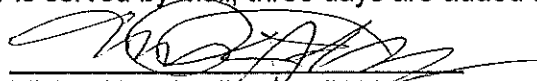
Sandra Sharon, Presiding Officer
Office of Administrative Hearings
1020 S Kansas Ave.
Topeka, KS 66612-1327

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.

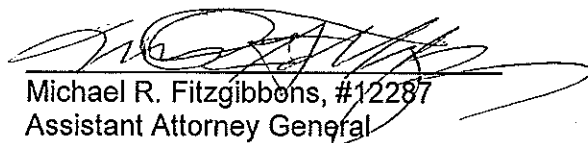


Michael R. Fitzgibbons, #12287
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson, Suite #1051
Topeka, KS 66612-1230
785-296-4325

CERTIFICATE OF SERVICE

I certify that on the 4th day of February, 2015, the foregoing copy of the PROPOSED DEFAULT ORDER TO REVOKING LICENSE was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Rochelle M. Rodriguez
2358 NW Military Hwy APT. D1
San Antonio, TX 78231


Michael R. Fitzgibbons, #12287
Assistant Attorney General

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**IN THE MATTER OF
ROCHELLE M. RODRIGUEZ
License No. 24-35660-062**

Case No. 12-094-7 and 12-837-0

AMENDED 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, Rochelle M. Rodriguez, is licensed to practice nursing in Kansas through 6/30/2012. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 2358 N.W. Military Hwy., San Antonio, Tx. 78231.
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 (KSBN) 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 by default in KSBN Case No. 09-132-7 and 10-816-7 for the following reasons:

"In January 2009, while employed with Life Care Center of Kansas City, Kansas, respondent failed to notify a physician of a patient with blood sugar count of 29 and transferred

the patient to dialysis. Lifecare Center of Kansas City's policy and procedure regarding blood glucose, requires staff to call a doctor if the blood sugar levels are less than 60 and over 400."

" Respondent failed to report a misdemeanor conviction on her most recent renewal application as required by K.A.R. 60-3-113. Respondent plead guilty to a charge of theft under \$500.00 on or about 7/18/2000 in the Municipal Court of Mission, Kansas. Respondent did not report the conviction on her renewal application filed on 6/29/2010."

(b) Respondent's license was revoked effective 9/10/2011 and she committed the following violations of the Kansas Nurse Practice Act (KNPA):

- 1) 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.
- 2) K.S.A.65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(e)(2), repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board.
- 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.

(c) Respondent continued to work without a license from 9/10/2011 through December 20, of 2011. In Case No. 12-094-7 respondent admitted to working without a license for four calendar months and paid a \$200.00 fine to the Board on or about 2/14/2012.

(d) In Case No. 12-837-0 respondent filed a reinstatement application on or about 1/11/2012. Respondent failed to report the prior revocation of her license in KSBN Case No. 09-132-7 and 10-816-7 on her reinstatement application. She failed to report the suspension of her nursing license in Missouri effective October 14, 2010 on her 2012 Kansas reinstatement application. Her Missouri license was not reinstated until March 7, 2011.

(e) The Kansas Board of Nursing reinstated her license on 2/16/2012 by mistake and based on respondent's failure to report the status of her Kansas license and her failure to report the suspension of her license in Missouri.

(f) Respondent has a history of failure to report her prior criminal history and to report prior disciplinary actions against her nursing licenses.

VIOLATIONS

6. Respondent has violated the Kansas Nurse Practice Act as follows when she applied for reinstatement of her license:

Count 1: 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 government, territory of the United States or country.


Count 2: 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.

WHEREFORE, petitioner requests a finding that the respondent has violated the Nurse Practice Act, that respondent's license to practice nursing in Kansas be revoked, 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:


Alma A. Heckler, #11555
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

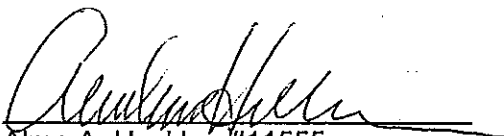
CERTIFICATE OF SERVICE

On the 17th day of November, 2014, I hereby certify that copies of the above and foregoing AMENDED PETITION, were placed in the U.S. Mail, postage prepaid, addressed to:

Rochelle M. Rodriguez
2358 N.W. Military Hwy.
San Antonio, Texas 78231

A copy was placed in Building Mail to the following:

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


Alma A. Heckler, #11555
Assistant Attorney General