

BEFORE THE KANSAS STATE BOARD OF NURSING

FILED

MAR 10 2016

IN THE MATTER OF

OAH No. 15BN0165

KSBN

MORGAN ELIZABETH KEMERLING
License No. 24-42305-052

Case No. 14-881-0

DEFAULT ORDER

NOW on this 2nd day of March 2016, the above-captioned matter comes on for consideration before Sandra L. Sharon, Administrative Law Judge (ALJ)/Presiding Officer, on the Kansas State Board of Nursing's (Board) Motion to Dismiss. The Board appeared through Bryce D. Benedict, Assistant Attorney General, and Disciplinary Counsel for the Board. The Respondent failed to respond.

The Presiding Officer finds:

1. On May 8, 2015, a Notice of Prehearing Conference was served on the Respondent. The prehearing was scheduled for August 25, 2015.
2. The appellant has failed to participate in the scheduled prehearing.
3. The Respondent is in default pursuant to Kansas Statutes Annotated (K.S.A.) 77-520.
4. A Proposed Default Order was issued on or about August 28, 2015.
5. The Proposed Default Order instructs: "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."
6. On September 14, 2015, the Board received correspondence from the Respondent. The correspondence stated: "I request a review of this order through ks state board of nursing. Sincerely, Morgan Jeffers Lis#: 24-42305-052."
7. Another Prehearing Notice was served notifying the Respondent that a prehearing conference would be held February 23, 2016.
8. The Board filed a Motion to Dismiss arguing that the Respondent's response to the Proposed Default Order was not filed timely.
9. The Board also argues that the Respondent failed to state grounds why the Proposed Default Order should be vacated.

10. The Respondent did not respond to the Board's Motion to Dismiss.

The Presiding Officer, being well and duly advised in the premises, now enters this Default Order against the appellant. It shall take effect as specified in the above findings.

Appeal Rights and Other Administrative Relief

Pursuant to K.S.A. 77-527, either party may request a review of this proposed default 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 order became 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, Suite 1051, Topeka, Kansas 66612-137.30

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

Pursuant to K.S.A. 77-531, if the order is served by mail, three days are added to the time limits set out above.



Sandra L. Sharon
Administrative Law Judge/Presiding Officer
Office of Administrative Hearings
1020 S. Kansas Avenue
Topeka, Kansas 66612
Telephone: 785-296-2433

CERTIFICATE OF SERVICE

On March 7, 2016, I mailed this original document through State Building Mail to:

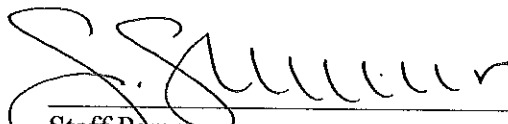
Mary Blubaugh
Executive Administrator
Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612
Telephone: 785-296-4325

and a copy of this document through State Building Mail to:

Bryce D. Benedict
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:

Morgan Elizabeth Kemerling
506 S 6th Street
Savannah, MO 64485



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

IN THE MATTER OF MORGAN ELIZABETH KEMERLING

License No. 24-42305-052

Case No 14-881-0

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KSBN

PETITION

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

1. Respondent, Morgan Elizabeth Kemerling, is licensed to practice nursing in Kansas through May, 2016. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 506 S. 6th Street Savannah, MO 64485.
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. Licensee renewed her license on the 23rd day of May 2014 and reported that she did have the required thirty (30) hours of Continuing Nurse Education (CNE) completed prior to her renewal.

- b. Licensee failed to complete the CNE prior to completing her renewal application as required by K.S.A. 65-1117(A) and K.A.R. 60-9-106.
- c. That this licensee responded "yes" to the question of "Have you obtained 30 hours of CNE for relicensure as required in KSA 65-117?" but did not provide documentation.
- d. These incidents allegedly occurred on or about May 23rd, 2014

VIOLATIONS

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

Count 1: K.S.A. 65 1120(a)(1) unprofessional conduct by fraud or deceit in practicing nursing.

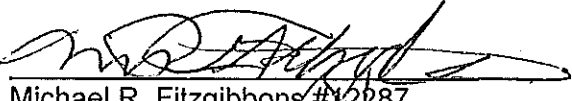
Count 2: K.S.A 65- 1120(a)(7) wilfully violating any of the provisions of the Kansas Nurse Practice Act and K.S.A. 65-1117(A) and K.A.R. 60-9-106 every licensee with an active nursing license shall submit with the renewal application evidence of satisfactory completion of a program of CNE as required by the Board which is 30 hours of CNE obtained within the prior licensing period.

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 \$100.00.

Respectfully submitted,

Derek Schmidt
Kansas Attorney General

By:


Michael R. Fitzgibbons #12287
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612