



Kathleen Sebelius, Governor  
Mary Blubaugh MSN, RN  
Executive Administrator  
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KSBN

May <sup>8<sup>th</sup></sup> 2007

Thomas E. Fox  
1211 Main  
Osawatomie, KS 66064

Case No. 04-706-7  
License No. 33-002956-121

**SUMMARY ORDER**

Dear Mr. Fox:

The Investigative Committee of the Kansas State Board of Nursing (KSBN) has reviewed your application materials. It is the decision of the Board that your reinstatement application to practice as a licensed mental health technician in Kansas is denied. This denial is based upon the following:

**FINDINGS OF FACT**

1. (a) On or about May of 2004 Applicant was employed at Osawatomie State Hospital, Osawatomie, Kansas as a Licensed Mental Health Technician (LMHT). While working at Osawatomie State Hospital on or about 5/28/2004, Applicant was assigned to administer medications to patients.
- (b) Patient LB came to the medication window. Applicant asked LB her name by calling out the name of a different patient. Patient LB incorrectly responded in the affirmative. Applicant then provided LB medications that were not prescribed for LB and were meant for another patient.
- (c) Osawatomie State Hospital policy for administration and documentation of medications requires confirmation of patient identity by using at least two identifiers. Applicant did not follow this policy in administering medication to LB.
- (d) On or about 12/13/2005 the KSBN Investigative Committee reviewed the above incident. It was the decision of the Investigative Committee that the Applicant complete six (6) hours of continuing nursing education on medication administration by 3/31/2006.
- (e) On or about 12/31/2006 Applicant's license to practice as an LMHT in Kansas lapsed.
- (f) On or about 1/5/2006 the KSBN received written notice from Applicant that he agreed to complete the continuing nursing education by 3/31/2006. Applicant did not provide to the KSBN verification that he completed the continuing nursing education as directed.

(g) Applicant submitted an application to the Board for reinstatement as a Licensed Mental Health Technician in the State of Kansas on or about 1/9/2007.

CONCLUSIONS OF LAW

2. Pursuant to K.S.A. 65-1120(a), the Kansas State Board of Nursing may deny, revoke, limit or suspend any license, certificate of qualification or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or as a registered nurse anesthetist that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a certificate of qualification or authorization, if the applicant, licensee or holder of a certificate of qualification or authorization is found to have violated the Nurse Practice Act. The above fact findings establish evidence that the applicant violated the following provisions of the Nurse Practice Act:

(a) K.S.A. 65-1120(a)(3), Professional Incompetency by K.S.A. 65-1120(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.

(b) 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.

3. K.S.A. 77-511(a)(2)(A) of the Kansas Administrative Procedure Act authorizes the use of summary proceedings by a state agency when denying an application in whole or in part.

4. Your conduct described herein violates the Kansas Nurse Practice Act.


5. The role of the Kansas State Board of Nursing is to protect citizens of Kansas.

6. If you wish to dispute this matter, contact the Board immediately by following the procedure for requesting a hearing. A copy of your application will be sent to you upon request.

7. Pursuant to K.S.A. 77-537, this decision, which is called a Summary Order, is subject to your request for a hearing. If you desire a hearing, you must submit or direct a written request for hearing to:

Kansas State Board of Nursing  
Legal Division  
900 SW Jackson, Suite 1051  
Topeka, Kansas 66612-1230  
(785) 296-4325


THIS REQUEST MUST BE SUBMITTED WITHIN FIFTEEN (15) DAYS FROM THE DATE OF THIS ORDER. If a hearing is not requested in the time and manner stated above, this Summary Order becomes effective and final upon the expiration of the time for requesting a hearing.

  
Judith Hiner, RN, BSN, CNA  
Investigative Committee, Chair  
Kansas State Board of Nursing

8 27<sup>th</sup> May  
CERTIFICATE OF SERVICE

I certify that on the 27<sup>th</sup> day of May, 2007, the foregoing copy of the Summary Order was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Thomas E. Fox  
1211 Main  
Osawatomie, KS 66064

  
Mark A. Knight, #~~12~~183  
Assistant Attorney General