

BEFORE THE KANSAS STATE BOARD OF NURSING

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

IN THE MATTER OF
ELIZABETH M. FITZGERALD
License No. 13-076344-022

Case No. 07-287-7

PROPOSED DEFAULT ORDER TO REVOKE LICENSE

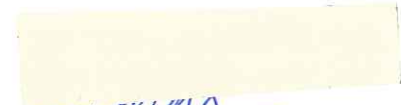
NOW ON THIS 25th day of September, 2007, petitioner, the Kansas State Board of Nursing, appears by disciplinary counsel, Mark A. Knight, for a Hearing on the Petition. Respondent does not appear.

Wherefore, the Presiding Officer finds as follows:

1. Respondent is licensed to practice nursing in Kansas through 2/29/2008. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter of this action.
2. Petitioner sent a copy of the petition and notice of this hearing to respondent's last known address and service is proper.
3. Petitioner moves for issuance of a proposed default order revoking Respondent's license. The petitioner's request is granted by default.
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. Respondent is to mail the license card to the Kansas State Board of Nursing office immediately.
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 registered nurse license to the Kansas State Board of Nursing.

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

IT IS SO ORDERED.


Sandra L. Sharon, Presiding Officer

NOTICE

This is a proposed default order pursuant to K.S.A. 77-520. This order becomes effective if respondent does not file a written motion requesting that this order be vacated with the board within seven days after the day this order is mailed. If a motion is timely filed, then a hearing will be set and notice given to respondent to appear. Another order will then be issued either vacating or affirming this order. The written motion is to be filed at:

State Board of Nursing - Legal Division
Landon State Office Building
900 SW Jackson, Ste 1051
Topeka, KS 66612-1230

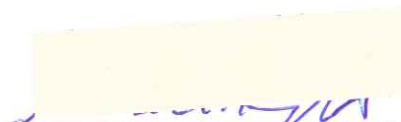

Mark A. Knight, #12183
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson, Suite #1051
Topeka, KS 66612-1230
785-296-4325

CERTIFICATE OF SERVICE

I certify that on the 25th day of September, 2007, the foregoing copy of the Proposed Default Order Revoking License was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Elizabeth M. Fitzgerald
523 N Pine Ct
Gardner, KS 66030

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


Mark A. Knight
Assistant Attorney General

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

AUG 18 2007

KSBN

**IN THE MATTER OF
ELIZABETH M. FITZGERALD
License No. 13-076344-022**

Case No. 07-287-7

PETITION

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

1. Respondent is licensed to practice nursing in Kansas through 2/29/2008. The Board has jurisdiction over the respondent and the subject matter of this action.
2. Respondent's address of record is 523 N Pine Ct, Gardner, KS 66030.
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) On or about February of 2007, Respondent began working at Miami County Medical Center, Paola, Kansas, as a registered nurse. On or about 2/24/2007, Respondent was on duty at Miami County Medical Center when Respondent signed out Fentanyl 100 micrograms/2 ml on four different occasions for patient DK. Fentanyl is a prescription only narcotic drug.

(b) Miami County Medical Center staff learned of Respondent signing out Fentanyl for DK. Staff checked with DK's physician and learned that no Fentanyl had been prescribed for DK.

(c) On or about 3/7/2007, Respondent was interviewed by Miami County Medical Center Staff. During the interview, Respondent advised that she took the Fentanyl as well as Demerol. Respondent resigned her position with Miami County Medical Center.

(d) Subsequent to 3/7/2007, Miami County Medical Center Staff completed a review of patient records where Respondent was providing care between the dates of 2/17/2007 and 3/7/2007. Staff found additional narcotic discrepancies attributable to Respondent. These discrepancies showed nine vials of Fentanyl and two Demoral doses unaccounted for.

(e) On or about 4/24/2007, Respondent was interviewed by KSBN investigator K. Peschka. During the interview, Respondent admitted to taking narcotics for her personal use while working at Miami County Medical Center.

(f) On or about 3/29/2007, Respondent submitted to an alcohol and drug evaluation. A diagnosis of opiate abuse was issued. On or about 4/27/2007, Respondent entered the Kansas Nurses Assistance Program (KNAP) and agreed to abide by the requirements and conditions of the KNAP program.

(g) In a letter dated 7/16/2007, written to the KSBN, Respondent stated her request to relinquish her license to practice nursing in Kansas. In the letter Respondent advised that she wanted to relinquish her license due to an addiction. Accompanying the letter was Respondent's KSBN license card.

(h) On or about 8/8/2007, KNAP issued a letter stating Respondent's KNAP case was closed for noncompliance in all aspects of the program, including be not limited to failure to submit to random urine drug screens; failure to attend monthly monitoring meetings; failure to provide documentation of attendance at 12 step meetings.

VIOLATIONS

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

Count 1: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (n), diverting drugs, supplies, or property of any patient or agency.

Count 2: 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 3: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110 (s) failing to complete the requirements of the impaired provider program of 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 revoked, and that costs of this action be assessed to the respondent in the amount of \$70.00.

Respectfully submitted,

Paul Morrison
Kansas Attorney General

By: _____

Mark A. Knight, #12183
Assistant Attorney General