

BEFORE THE KANSAS STATE BOARD OF NURSING

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

FILED

JAN 16 2015

IN THE MATTER OF BRANDY DAWN CUMMINS

KSB.

License No 23-39516-101 (Reinstatement)

Case No.14-2203-9

SUMMARY ORDER

Now this 11th day of January, 2015, the above matter comes before the Kansas State Board of Nursing (Board) pursuant to authority granted to the Board by K.S.A. 65-1120. The Board hereby proposes to find facts and take disciplinary action against the registered nurse endorsement application of Brandy Dawn Cummins (Reinstatement Applicant) by way of Summary Order as provided by K.S.A. 77-537.

FINDINGS OF FACT

1. Applicant submitted a reinstatement application to practice nursing in the state of Kansas. The Board has jurisdiction over the Applicant and the subject matter of this action.
2. Applicant's address of record is 1436 Maple Street, Atchison, Kansas 66002. The reinstatement application and the required \$70.00 fee requesting a license to practice nursing in the state of Kansas.
4. On or about 12/10/2014 Applicant submitted proof of 30 hours of approved Continuing Nursing Education (CNE) within the appropriate 2 year time frame (12-10-12 through 12/10/14).
5. Review of the reinstatement application and other information gathered by the Board revealed the following information upon which this action is based.

Respondent entered a Final Order and Consent Agreement (Consent Agreement) on or about September 16, 2011, with the Kansas State Board of Nursing to resolve case number 10-192-9. The Consent Agreement remains in effect until such time as the Respondent completes all conditions and requirements of the Consent Agreement. Respondent has not completed all conditions and requirements of the Consent Agreement.

(b) Conditions of the September 16, 2011 Consent Agreement include a condition that the Respondent participate in and complete the recommendations and requirements of the Kansas Nursing Assistance Program (KNAP).

(f) Respondent became non-compliant with KNAP by failing to complete scheduled urine drug screen on January 3, 2012 and testing positive for narcotics on January 18, 2012. Respondent also failed to complete twelve step sheets in October, November and December of 2011.

(g) Respondent entered the Final Order and Consent Agreement on September 16, 2011 and stipulated to the following facts in the agreement:

1. On or about 02/25/2010, the Board received information regarding Respondent, alleging that Respondent had a positive urine drug screen which was collected on 1/26/2010 as part of a pre-employment drug screen.

2. In a letter dated 3/31/2011, Respondent was informed that the Board was referring her to the Kansas Nurses Assistance Program (KNAP).

3. In a letter dated 6/13/2011, Respondent's KNAP case was closed due to failure to fully enroll in the KNAP program.

(h) Respondent has also failed to complete any quarterly Employee Performance Evaluations and Continuing Nurse Education (CNE) as required by the September 16, 2011 Consent Agreement.

(i) Respondent also failed to timely report a criminal conviction on February 24, 2012 for misdemeanor giving a worthless check. Respondent did report a misdemeanor conviction in 2010 for driving without insurance but failed to provide a copy of the conviction journal entry to the Board. (Case No. 11-1195-9).

(j) Respondent's KNAP case was closed unsuccessfully on or about January 18, 2012. KNAP is unable to monitor the respondent's safety to practice due to Respondent's repeated failure to meet the requirements of KNAP; i.e. positive UDS dated January 10, 2012 and failure to provide 12-step sheets.

(k) Respondent has failed to meet the requirements of the Final Order and Consent Agreement dated September 16, 2011; to include quarterly reports from her employer, KNAP

participation, proof of completion of CNE, notice to the Board of criminal convictions and respondent has relapsed. Respondent's license should be revoked.

(l) Respondent's license was revoked.

(m) Licensee applicant has filed an application for reinstatement but has failed to pay the administrative costs of case 10-192-9 and 11-1195-9.

(n) Licensee was notified of costs on the 23rd day of December, 2014 and failed to respond.

CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1120(a), the Kansas State Board of Nursing may deny, revoke, limit or suspend any license 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. Pursuant to K.S.A. 74-1110 the board of nursing, in addition to any to any other penalty prescribed by law, may assess a civil fine, after proper notice and an opportunity to be heard, against any person granted a license, certificate of qualification or authorization to practice by the board of nursing for a violation of a law or rule and regulation applicable to the practice for which such person has been granted a license, certificate of qualification or authorization by the board.

2. Pursuant to K.S.A. 65-4924 and K.S.A. 65-4925 if the Kansas State Board of Nursing receives a report or complaint filed with such agency relating to a health care provider's inability to practice the provider's profession with reasonable skill and safety due to physical or mental disabilities, including deterioration through the aging process, loss of motor skill **or abuse of drugs or alcohol**, the agency may refer the matter to an impaired provider committee of the appropriate state or county professional society or organization and may contract an appropriate state or county professional society to contracting with providers of treatment programs; receive and evaluate reports of suspected impairment from any source; intervene in cases of verified impairment; refer impaired providers to treatment programs; monitor the treatment and rehabilitation of impaired health care providers; provide post treatment monitoring and support of rehabilitated impaired health care providers; and perform such other activities as agreed upon by the licensing agency and the impaired provider committee; further if the Board has reasonable cause to believe that a health care provider is impaired, the licensing agency may cause an evaluation of such health care provider to be conducted by the impaired provider committee or its designee for the purpose of determining if there is an impairment and the impaired provider committee or its designee shall report the findings of its evaluation to the licensing agency. The reports and records made pursuant to K.S.A. 65-4923 or 65-4924, and amendments thereto, shall be confidential and privileged, including reports and records of any state licensing agency or impaired provider committee of a professional society or organization; and such reports and records shall not be subject to discovery, subpoena or other means of

legal compulsion for their release to any person or entity and shall not be admissible in any civil or administrative action **other than a disciplinary proceeding by the appropriate state licensing agency.**

3. The above fact findings establish evidence that the applicant's conduct violated the following provisions of the Kansas Nurse Practice Act:

(a) K.S.A. 65-1120 (a)(4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol;

(b) K.S.A. 65-1120(a)(6) to be guilty of unprofessional conduct as defined by rule and regulations of the Board, K.A.R 60-3-110 (s) failing to complete the requirements of the impaired provider program of the Board

(c) K.S.A. 65-1120(a)(3), Professional Incompetency as defined by K.S.A. 65-1120(e)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

(d) K.S.A. 65-1120 (3) to be guilty of unprofessional conduct failing to furnish the board, its investigators, or its representative with any information legally requested by the board KAR 60-3-110 (t).

4. K.S.A. 77-511(a)(2)(A) of the Kansas Administrative Procedure Act authorizes the use of summary proceedings by a state agency if the use of summary proceedings does not violate any provision of law and the protection of the public interest does not require the state agency to give notice and an opportunity to participate to persons other than the parties.

Policy Statements

1. The role of the Kansas State Board of Nursing is to protect the citizens of Kansas.
2. While the practice of health care is not an exact science impairments of any kind may interfere with a health care provider's judgment and actions and subject a patient to a potential harm in the practice of the health sciences.
3. As set forth in K.S.A 65-4929 the legislature of the state of Kansas recognizes the importance and necessity of providing and regulating certain aspects of health care delivery in order to protect the public's general health, safety and welfare. Implementation of risk management plans and reporting systems as required by K.S.A. 65-4922, 65-4923 and 65-4924 and peer review pursuant to K.S.A. 65-4915 and amendments thereto effectuate this policy.
4. Failing to comply with request by the Board does not comport to the good order of the nursing profession.

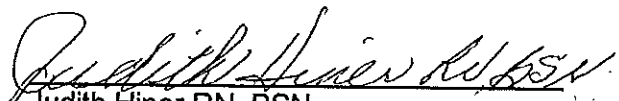
IT IS THEREFORE ORDERED BY THE KANSAS STATE BOARD OF NURSING THAT

1. Applicant's reinstatement application to practice nursing in the state of Kansas is denied.

1. Applicant's reinstatement application to practice nursing in the state of Kansas is denied.

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, this Summary Order becomes effective as a final order, without further notice, upon the expiration of the time for requesting a hearing.

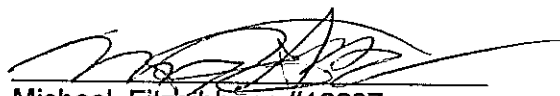
Pursuant to K.S.A. 77-531, if the Summary Order is served by mail, three days are added to the time limits set out above in calculating timely receipt of an appeal request.


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

CERTIFICATE OF SERVICE

I certify that on the 11th day of January, 2015, 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:

Brandy Dawn Cummings
1436 Maple Street
Atchison, Kansas 66002


Michael Fitzgibbons #12287
Special Assistant Attorney General