

April 4, 2009

Jessica D. Barkley (a.k.a. Sanders)
320 N Colby
Valley Center, KS 67147

Case No. 08-761-6, 09-103-4
License No. 23-032795-071

SUMMARY ORDER

Dear Ms. Barkley:

The Investigative Committee of the Kansas State Board of Nursing (KSBN) has reviewed the Board investigations in Case numbers 08-761-6 and 09-103-4. It is the decision of the Board that your license to practice nursing as a licensed practical nurse in Kansas is revoked. This revocation is based upon the following:

FINDINGS OF FACT

1. (a) In Case No. 08-761-6 on or about May 28, 2008 to June 28, 2008 Respondent diverted narcotics while working at Arkansas City Presbyterian Manor, Arkansas City, Kansas. Respondent failed to chart the reasons for narcotic administration and the administration of the drugs to patients appropriately. Records of the facility show Respondent removed most of the narcotics diverted during her shift that began on 6/27/2008 at 10:00 pm to 6/28/2008 at 6:30 am. Respondent was terminated on 6/30/08.

(b) Respondent was then employed by Good Samaritan Society, Winfield, Kansas from August 19, 2008 to September 2, 2008 and Respondent was terminated for "violation of code of ethics for narcotic administration". Records indicated the Respondent failed to chart why she signed out and removed narcotics (usually lortab) and did not chart the administration of the medications to patients. Respondent did not report her prior employment at Arkansas City Presbyterian Manor and the reasons for her dismissal on her application to Good Samaritan dated 8/15/2008.

(c) In Case No. 09-103-4 Respondent accepted employment at Villa Maria in Mulvane, Kansas on 11/6/2008. Respondent failed to report her most recent employment and reasons for dismissal from both Arkansas City Presbyterian Manor and Good Samaritan Society on her application to Villa Maria dated 10/30/2008. The Respondent was terminated from Villa Maria on 12/17/08 due to her failure to chart reasons for narcotic administration. Six residents were found not to have their prn lortab or their narcotic sheets. A review of the order sheets and dates of medication delivery by the facility indicated that as many as 320 of the 330 lortab pills ordered in December 2008, were missing and allegedly diverted by the Respondent. An investigation was conducted. The Respondent had removed the keys for the medication cart from the facility on the morning of 12/17/2008 and failed to return the keys until facility called

demanding return of the keys. Respondent's mother returned the keys in the evening of 12/17/2008. Narcotics and narcotic sheets were locked into the cart and counted by the Respondent and a CMA on the morning of 12/17/2008, prior to the Respondent taking the keys out of the facility. The narcotics and narcotic sheets were found to be missing after the Respondent left the facility the morning of 12/17/2008 with the keys.

(d) The Respondent has worked at three different facilities in the fall of 2008 and has been terminated at all three facilities for violations of their narcotic policies and failure to document narcotic administration. Significant amounts of narcotics were removed and diverted. Respondent failed to accurately report her employment history to both Good Samaritan and Villa Maria.

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:

Count 1: K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board.

Count 2: 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 3: 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 4: 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.

Count 5: K.S.A. 65-1120(a)(3), Professional Incompetency 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.

Count 6: K.S.A. 65-1120(a)(7), to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act.

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, this Summary Order becomes effective as a final order upon the expiration of the time for requesting a hearing.

PN
Janet Jacobs, LPN
Investigative Committee, Chair
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

I certify that on the 7th day of April, 2009, 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:

Jessica D. Barkley
320 N. Colby
Valley Center, KS 67147

Alma A. Heckler, #11555
Assistant Attorney General