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MAY 15 2008

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BEFORE THE KANSAS STATE BOARD OF NURSING

IN THE MATTER OF
REGINALD O. BOOKER
License No. 33 002337 122

Case No. 06 1060 8
OAH No. 08BN0074

INITIAL ORDER

Now on this 23rd day of April 2008, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing. Sandra L. Sharon was appointed as Presiding Officer pursuant to K.S.A. 77-514. The Petitioner, the Kansas State Board of Nursing, appears by Assistant Attorney General Mark A. Knight, Disciplinary Counsel for the Board. The Respondent, Reginald O. Booker, appears in person.

FINDINGS OF FACT

1. Reginald O. Booker is licensed by the Kansas State Board of Nursing as a Licensed Mental Health Technician (LMHT).
2. The facts in this hearing are not disputed and are as follows:
 - (a) On or about 8/24/2004, Respondent was arrested in Shawnee County, Kansas. The arrest resulted in the Respondent being charge in Shawnee County, Kansas District Court case number 04CR01523 with Possession or Control of any Hallucinogenic Drug and Use or Possess with intent to use Drug Paraphernalia, both misdemeanors. Case number 04CR01523 was resolved by Respondent entering and successfully completing a diversion agreement.
 - (b) On or about 1/13/2006, Respondent was convicted of Driving Under the Influence of Alcohol (DUI), a misdemeanor, in the Municipal Court of Topeka, Kansas, case number CR-2005-0023861-DU. Respondent was sentenced to 48 hours in jail and probation which Respondent completed successfully.
 - (c) On or about 12/29/2006, the KSBN received Respondent's application for renewal of his Licensed Mental Health Technician license. In the application Respondent disclosed the 1/13/2006 DUI conviction. Subsequent investigation by the KSBN revealed the completed diversion agreement in 04CR01523.
 - (d) As a result of the above information Respondent agreed to submit to an evaluation through the Board's impaired provider program, the Kansas Nurses Assistance Program (KNAP). On or about 3/15/2007, Respondent was referred to KNAP. On or about 4/4/2007, Respondent submitted to an evaluation through KNAP. The result of the evaluation was a recommendation for Respondent to attend a drug and alcohol information program, submit to random drug and alcohol screening, attend 12-step meeting, and obtain a 12-step sponsor.

- (e) On or about 5/3/2007, Respondent's KNAP case was closed due to non-compliance as Respondent advised he did not wish to continue with the KNAP program.

CONCLUSIONS OF LAW

1. The Kansas State Board of Nursing may revoke any license to practice as a Mental Health Technician when the licensee has committed unprofessional conduct as defined by the rules and regulations of the Board. Kansas Statutes Annotated (K.S.A.) 65-4209(5).
2. Failing to complete the requirements of the impaired provider program of the Kansas State Board of Nursing is an act which constitutes unprofessional conduct. Kansas Administrative Regulation (K.A.R.) 60-7-106(r).

DISCUSSION

1. Although Mr. Booker has completed all the requirements of the District Court regarding his drug possession and DUI convictions, the Kansas State Board of Nursing has authority to monitor a Licensed Mental Health Technician.
2. When the Kansas State Board of Nursing believes that one of its licensees may not be safe to practice, the Board may require that the licensee participate in an impaired provider program. This is the Board's requirement for Mr. Booker.
3. At hearing, Mr. Booker indicated that his position was not totally adverse to this requirement of the Board. Mr. Booker indicated a desire to maintain his license as a Mental Health Technician. He may do so by meeting the requirements of the Board.

CONCLUSION

1. Mr. Booker will have 60 days from the date of this order to comply with the Board's directive to participate in the impaired provider program.
2. If Mr. Booker does not show proof of compliance with this directive, his license as a Mental Health Technician shall be revoked on the 61st day.
3. Costs of this action shall be assessed to the Respondent in the amount of \$70.00.

Appeal Rights and Other Administrative Relief

Pursuant to K.S.A. 77-527, either party may request a review of this initial 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 initial order was served. 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: Mary Blubaugh, Executive Director, Board of Nursing, Landon State Office Building, Suite 1051, 900 SW Jackson, Topeka, KS 66612-1230.

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

OFFICE OF ADMINISTRATIVE HEARINGS

Sandra L. Sharon
Presiding Officer
Office of Administrative Hearings

CERTIFICATE OF SERVICE

On May 15, 2008, I mailed a copy of this document to:

Reginald O. Booker
3500 SW 29th St., #92
Topeka, KS 66614

Mark Knight
Assistant Attorney General
Disciplinary Counsel for the Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612

Staff Person
Office of Administrative Hearings