

MEMORANDUM

DATE: January 25, 2011

TO: Mitzi McFatrach, Executive Director
Kansas Advocates for Better Care
913 Tennessee, Ste 2
Lawrence KS 66044

FROM: Brenda Nesbitt Kroll, Licensing Administrator
Health Occupations Credentialing

RE: Disciplinary Summary – Kansas Board of Adult Care Home Administrators

As requested, a summary of Board disciplinary actions for the last four years follows. Data for 2007, 2008, 2009, 2010 and 2011 is included as there are still pending cases from 2011.

TOTAL CASES – (published and unpublished) – 17

PUBLISHED

- Revocations - 2

UNPUBLISHED

- Dismissed with Warning Letter requiring Continuing Education – 1
- Dismissed with Cautionary Letter – 6
- Dismissed with letter advising respondent's corrective actions were appropriate – 1
- Voluntary Surrender of License – 1
- Dismissed with intent to open new case if criminal charges were filed - 2
- Dismissed with no other action – 2

PENDING CASES

- Emergency Suspension Order was Stayed as respondent requested a Hearing – Hearing Scheduled for March 9, 2012 - 1
- Case involving alleged improper insulin injection - 1

SUMMARY OF CASE DETAILS – Please note that after investigation The complaint committee of the Board determined some allegations in these cases were unfounded and/or other mitigating circumstances were involved. The details of the investigations were too lengthy to include in this report.

PUBLISHED

LICENSE REVOCATIONS

●Allegations: Physical altercation between administrator and vendor inside nursing facility.

License revoked retroactively commencing 1/1/09 until respondent complies with the following:

1) complete anger management course and provide documentation; 2) complete 10 hrs continuing education in Ethics then provide documentation of completion; 3) cooperate with judicial authorities in their county regarding criminal sentence; 4) refrain from criminal conduct and professional misconduct in the future; 5) submit a paper of minimum 6 pages regarding problems which led to the situation in question and explaining how respondent will prevent similar problems in future.

License Revoked - Case Closed 6/11/2010 due to no response from respondent or counsel.

●Allegations: Previous employing facility alleges licensee misused a corporate credit card and obtained or set up numerous credit cards and/or online charge accounts under the facility name without the authorization or knowledge of the facility board.

License Revoked -Respondent signed Consent Agreement 7/24/07 revoking license.

UNPUBLISHED

●Allegations: In reference to the good moral character requirement. Allegation that respondent falsified a signature implying that the name signed had contracted with the home health portion of the business to provide social work services as a shared employee with that person was, instead, employed by the long-term care portion of the business.

Dismissed with Warning Letter and four extra hours of CE required

●Allegations: Possible mishandling of resident's economic stimulus check and billing inconsistencies.

Dismissed with Cautionary Letter and statement that respondent's corrective actions were appropriate.

●Allegations: Family members of resident (serving as durable power of attorney) who is cognitively impaired allege that respondent took resident to the bank and had resident write a counter check to the facility.

Dismissed with Cautionary Letter advising respondent to obtain proof from the family that the situation has been satisfactorily resolved and that respondent avoid this type of financial involvement with residents and their funds in the future, specifically, in the future to petition the courts for conservatorship, with the bank named a conservator.

●Allegations: Failing to operate the facility in a manner to ensure that all residents received necessary and appropriate care and services.

Dismissed with Cautionary Letter to include a statement commending respondent's actions during the situation involved in the complaint.

●Allegations: negligent actions related to turning up hot water heater on the wrong hallway and not checking the water temperatures afterward. A resident received burns while being showered as a result of the water being scalding hot.

Dismissed with Cautionary Letter including a statement advising that in the future, if the water heater needs to be turned up, that the water temperatures be tested before bathing any residents.

●Allegations: Failure to report and investigate allegations of resident abuse.

Dismissed with Cautionary Letter advising that in the future respondent should call the police to confirm the findings of in-house investigations, particularly for incidents occurring on weekends.

●Allegations: Failure to ensure that facility was administered in a manner that enabled it to use the resources effectively and efficiently.

Dismissed with Cautionary Letter including advice that respondent take courses in management training and get better support from the owners of the facility.

●Allegations: Disciplinary action by another state based on that state's survey results. That facility was later back in compliance.

Dismissed with Cautionary Letter.

●Allegations: Involving Good Moral Character requirements. Past and pending criminal cases in another state and allegations of sexual misconduct. KDHE staff followed up with Missouri Board of Nursing Home Administrators to determine if there were any past, current, pending disciplinary issues related to this respondent and found that respondent had allowed their Missouri license to lapse so no actions were being pursued in Missouri.

Voluntary Surrender of License Because respondent voluntarily surrendered their Kansas license the Board of Adult Care Home Administrators no longer has jurisdiction for any actions. However, if the respondent ever seeks reinstatement of the Kansas license the complaint will be reopened.

●Two Cases - Allegations: Failure to ensure that neither abuse nor exploitation occurred: Administrator did not implement policies and monitor resident trust account and resident trust petty account which allowed business manager to access cash from those accounts for personal gain. *After lengthy thorough investigation Board determined corporate issues were in question and allegations by corporation were unfounded.*

Dismissed with intent to open new complaint in the event any criminal charges were filed. None have been filed.

●Allegations: Failure to ensure that neither abuse nor exploitation occurred. Respondent did not properly supervise administrators under their corporate supervision to insure they implemented policies and procedures to protect residents. Office manager secured monies from resident trust account and resident petty cash account. *After lengthy thorough investigation Board determined corporate issues were in question and allegations by corporation were unfounded.*

Dismissed

Allegations: A caller reported respondent had previous criminal conviction. After investigation it was determined that there was a conviction four years previously (non-person Class B Misdemeanor). It was also discovered this case related to the respondent having been in a domestic abuse situation in which they were the victim. Charges related to self defense.

Dismissed with no probable cause found

PENDING

●Allegations: Verbal and physical abuse to residents in respondent's care, failure to ensure that each resident remained free from physical, mental and verbal abuse, failure to act intentionally or recklessly that causes or is likely to cause harm to a resident including: (1) infliction of physical or mental injury (4) unreasonable use of isolation as punishment (5) threat or menacing conduct directed toward a resident that results or might reasonably be expected to result in fear or emotional or mental distress and (7) deprivation of goods or services which are necessary to avoid physical or mental harm or illness.

The board concluded that probable cause of violations of KSA 65-3508 and KSA 39-1401 which justifies revocation, suspension or other discipline of respondent's license as an adult care home administrator in the State of Kansas. Pursuant to KSA 77-536, the Board expressly finds the respondent's misconduct constitutes a real and immediate danger to the public health, safety or welfare that requires immediate state agency action to protect a particularly vulnerable group – those who reside at adult care homes.

Temporary Suspension of respondent's license until the matter can be fully investigated was recommended by the Board. Subsequently, respondent requested a formal evidentiary disciplinary hearing before the Board, therefore, the Temporary Suspension Order is Stayed until the hearing can be concluded.

●Allegations: In regard to respondent improperly injecting resident with insulin.
Case pending during investigation.