

BEFORE THE KANSAS STATE BOARD OF NURSING
Landon State Office Building, 900 S.W. Jackson #1051
Topeka, Kansas 66612-1230

FILED
DEC 31 2009
KSBN


IN THE MATTER OF
MONTE V. CARDWELL
License No. 13-070950-071

Case No. 96-202-0, 02-204-0, 08-968-3

ORDER DENYING PETITION FOR RECONSIDERATION

On December 8, 2009, the Board President, Jeanne Walsh, President of the Kansas State Board of Nursing, issued a final order denying review of the initial order. Respondent's petition for reconsideration of the agency final order was received on December 16, 2009. On December ~~16~~³¹, 2009, the Board President determined not to grant Respondent's petition for reconsideration of the final order. The petition for reconsideration is denied.

IT IS SO ORDERED.

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Jeanne Walsh, RN, MSN,
President
Kansas State Board of Nursing

JUDICIAL REVIEW

A person may seek judicial review of this order denying petition for reconsideration in accordance with the Act for the Judicial Review and Civil Enforcement of Agency Actions (K.S.A. 77-601 et seq.) by filing a petition for judicial review in the district court within thirty (30) days after service of this order pursuant to K.S.A. 77-613. The agency officer designated to receive service of process is Executive Director Mary Blubaugh, 900 S.W. Jackson, Ste. 1051, Topeka, Kansas 66612.

CERTIFICATE OF SERVICE


On the 31st day of December, 2009, I mailed a copy of this Final Order Denying Review to:

Monte V. Cardwell
1425 S. Wichita Street
Wichita, KS 67213

And by hand delivering a copy to:

Alma A. Heckler, #11555
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson #1051
Topeka, KS 66612

Mary Blubaugh, MSN, RN
Executive Administrator
Kansas State Board of Nursing

 *RV, MSN*
President,
Kansas State Board of Nursing

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Case No. 96 202 0, 02 204 0,
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Monte V. Cardwell
License No. 13 070950 071

OAH No. 10BN0002

INITIAL ORDER

This matter was heard on October 6, 2009, before the Kansas State Board of Nursing. Sandra L. Sharon was duly appointed Presiding Officer pursuant to K.S.A. 77-514. The Petitioner, the Kansas State Board of Nursing (Board), appears through Assistant Attorney General, Alma A. Heckler, Disciplinary Counsel for the Board. The Respondent, Monte V. Cardwell, appears in person.

Findings of Fact

1. On November 5, 2008, the respondent filed a reinstatement application with the Board to practice nursing in the State of Kansas.
2. The respondent previously was licensed to practice nursing in the State of Kansas and let his license lapse in July 1997.
3. In reviewing the reinstatement application, the Board determined that all information necessary to consider the application was not provided by the respondent.
4. Ultimately, it was determined that the respondent had had a license to practice nursing revoked in the State of Missouri.
5. Also, the respondent has a misdemeanor conviction of Giving a Worthless Check in 1995.
6. In 1999, the respondent received a felony conviction of Possession of a Stimulant.
7. In 2000, the respondent was found guilty of an Intoxicated Pedestrian in the Roadway.
8. The respondent has two DUIs on record. One in Blue Springs, Missouri from 2000. Another in 2007 in Saline County, Kansas.
9. The respondent asserts that he has completed drug and alcohol rehabilitation as of September 2, 2008. Nevertheless, on or about September 21, 2008, the respondent was again arrested for a DUI.

Conclusions of Law

1. The Kansas State Board of Nursing has the authority to deny, revoke, limit, or suspend any license or application for a license to practice nursing in the State of Kansas. Kansas Statutes Annotated (K.S.A.) 65-1120(a).
2. Cause to deny an application includes:
 - Being guilty of a felony or misdemeanor involving an illegal drug offense. K.S.A. 65-1120a(2);
 - Being unable to practice with skill and safety due to abuse of drugs or alcohol. K.S.A. 65-1120(a)(4);
 - Willfully or repeatedly violating provisions of the Kansas Nurse Practice Act. K.S.A. 65-1120(a)(7);
 - And having your license to practice nursing revoked by another state agency or an agency of the United States government. K.S.A. 65-1120(a)(8).

Discussion

1. At the hearing the respondent implied that [REDACTED] as of September 8, 2008, he is able to practice with skill and safety. However, the respondent's assertion fails in light of the fact that on or about September 21, 2008 he was once again arrested for a DUI. The respondent has failed to show that he can practice nursing with skill and safety. This is a violation of the Kansas Nurse Practice Act at K.S.A. 65-1120(a)(4).
2. Further, the respondent has been found guilty of felony and misdemeanor drug offenses. This is a violation of the Kansas Nurse Practice Act at K.S.A. 65-1120(a)(2).
3. The respondent has also had his license to practice nursing in the State of Missouri revoked. This license has not been restored. Pursuant to K.S.A. 65-1120(a)(8), is cause to deny his reinstatement application.

Conclusion

1. The respondent has failed to show that he has sufficiently rehabilitated so that he can safely practice nursing in the State of Kansas. The Board's denial of his reinstatement application is hereby affirmed.

2. Cost of this action shall be assessed against the respondent in the amount of \$70.00 pursuant to K.S.A. 65-1120(d).


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.

Pursuant to K.S.A. 77-530, if a request for review is not made in the time and manner stated above, this initial order shall become effective as a final order 30 days after service.

OFFICE OF ADMINISTRATIVE HEARINGS


Sandra L. Sharon
Presiding Officer
Office of Administrative Hearings

CERTIFICATE OF SERVICE

On Nov 6, 2009, I mailed a copy of this document to:

Monte V. Cardwell
1425 S. Wichita St.
Wichita, KS 67213

Mary Blubaugh, Executive Director
Alma A. Heckler, Assistant Attorney General
Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612


Staff Person
Office of Administrative Hearings