

**BEFORE THE KANSAS STATE BOARD OF NURSING**

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

**FILED**

**JAN 07 2009**

**KBBN**

**IN THE MATTER OF  
OLGA I. GARCIA  
License No. Applicant**

**Case No. 08-995-5**

**FINAL ORDER DENYING LICENSURE**

NOW ON THIS 17th day of December, 2008, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing, on the Applicant's request for hearing. The Kansas State Board of Nursing convenes to hear to matter. The Applicant, Olga I. Garcia does not appear. After a hearing the Kansas State Board of Nursing makes the following findings of fact and orders:

**FINDINGS OF FACT**

1. Applicant completed her nursing degree in Russia.
2. On 8/4/2008, the Kansas State Board of Nursing, (Board) received Applicant's Endorsement Application to practice nursing in the state of Kansas as a registered professional nurse. The (Board) has jurisdiction over the Applicant and the subject matter of this action.
3. Applicant's address of record is 10007 Esthner Ave, Wichita, KS 67209.
4. On 10/6/2008, the Board issued to the Applicant written notice of the Board's review of Applicant's 8/4/2008 Endorsement Application. The notice advised Applicant that she did not meet the requirements of K.A.R. 60-3-106(b)(2), and thus did not meet the requirements for licensure as a registered professional nurse as set forth in the Kansas Nurse Practice Act.
5. The notice stated ". . . K.A.R. 60-3-106(b)(2) requires that you also demonstrate 'proficiency in English by passing . . . the test of English as a foreign language [TOEFL] and the test of spoken English [TSE].' The Board has set a minimum score of 20 for speaking English and writing English. Your scores were 17 in both of these areas."

6. The 10/6/2008 notice advised Applicant that she could request further review of the Board decision at the Board next regularly schedule meeting if she so requested in writing within 30 days.

7. In a letter dated 10/10/2008, Applicant requested further review by the Board of her Endorsement Application. Applicant requested the Board to take into consideration all of Applicant's previous experiences with English training classes, work experience in Wichita, Kansas, and NCLEX testing, in waiving the TOEFL scores.

8. On 11/24/2008, Applicant was sent notice that the matter of her Endorsement application would be heard by the Board on 12/17/2008. Applicant was advised that she could submit additional information to the Board for it consideration. Applicant was advised that should she fail to participate in the hearing that the Board would make its final decision based upon its files and records.

9. Applicant did not appear in person, through counsel or by telephone for the hearing on 12/17/2008.

#### **POLICY STATEMENT**

10. The role of the Kansas State Board of Nursing is to protect the citizens of Kansas.

#### **DISPOSITION**

11. The Kansas State Board of Nursing has the authority under K.S.A. 74-1106 et seq. to approve or deny licensure based upon rules and regulations adopted by the Board.

12. K.A.R. 60-3-106 states:

“60-3-106 Licensure qualifications. (a) As part of the application process, each individual applying for licensure in Kansas who is a graduate of a foreign nursing school shall submit that individual's education and licensure credentials for evaluation to the commission on graduates of foreign nursing schools (CGFNS) or some other credentialing agency approved by the board. (b) Any individual applying for licensure in Kansas who is a graduate of a foreign nursing school in which instruction was not in English may be granted a license if that individual meets all other requirements for licensure in effect at the time of application and shows proof of proficiency in English by passing any of the following: (1) The commission on graduates of foreign nursing school's examination of English; (2) the test of English as a foreign language and the test of spoken English; or (3) similar examinations, as approved by the board.”


13. Applicant's nursing degree was complete in Russia therefore Applicant is a graduate of a foreign nursing school. Applicant must meet the requirements set forth in the Kansas Nursing Act and Board regulations. Applicant did not meet the requirements set forth in K.A.R. 60-3-106(b)(2), in that Applicant scored 17 on both the TOEFL and the TSE when 20 is the minimum passing score.

14. Applicant's request that the Board waive Applicant's TOEFL and TSE minimum scores based on Applicant's previous experiences with English training classes, work experience in Wichita, KS, and NCLEX testing is denied.

15. Applicant's endorsement applicant to practice nursing in the state of Kansas as a registered professional nurse, received on 8/4/2008, is Denied.

16. Mary Blubaugh, Executive Administrator of the Board, shall mail a copy of this order to the applicant.

**IT IS SO ORDERED.**

  
Jeanne Walsh, RN, MSN  
President  
Kansas State Nursing Board

STATEMENT OF AVAILABLE REMEDIES FOR ADMINISTRATIVE AND JUDICIAL REVIEW

The procedures available and time limitations for seeking reconsideration or other relief are as follows:

Any party, within fifteen (15) days after service of a final order, may file a petition for reconsideration with Executive Director Mary Blubaugh, 900 S.W. Jackson, Ste. 1051, Topeka, Kansas 66612. The petition for reconsideration shall state the specific grounds upon which the reconsideration is requested. The filing of the petition is not a prerequisite for seeking judicial review.

A person may seek judicial review of this Final Order 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 7<sup>th</sup> day of January, 2009, I mailed a copy of this Final Order Denying Licensure to:

Olga I. Garcia  
10007 Esthner Ave  
Wichita, KS 67209



Mary Blubaugh  
Executive Administrator for the  
Kansas State Nursing Board