

proceedings, if he chooses to obtain one. Respondent states he is aware of this right, but he is waiving that right and wishes to proceed without counsel. The Hearing Officer asks both sides if they are ready to proceed. Both sides indicate they are ready.

As a preliminary matter, the Hearing Officer reviews the agency record in the Respondent's previous case, 92-389-8, in which his license was revoked by a Default Order on February 21, 1994. That order was modified by a Nunc Pro Tunc Order on February 23, 1994. The record reflects those orders were served on the Respondent at his last address known to the Board.

The Hearing Officer advises the Respondent that he cannot, and will not, change any of the findings or actions taken in his previous case. However, he will allow the Respondent to make any statement relating to that case that might pertain to his current application for reinstatement. The Respondent states that he did not receive that notice or other materials in that case until after the hearing and orders were issued. He denied the actions alleged in that case occurred, but recognizes that the Hearing Officer cannot change the Board's previous action. Respondent further states that he did not advise the Board of his change of address when the 1992 case was filed. Respondent states that his intention for seeking reinstatement of his license is to return to work in nursing. Respondent submits Respondent's Exhibit #1, a letter of reference from a former employer, Ruelle LaCrone, R.N. There is no objection to the exhibit and it is admitted.

The Hearing Officer makes further inquiry into the Respondent's licensure history. Both parties make their recommendation to the Hearing Officer, who makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

The Hearing Officer having reviewed: the agency record in this case, which includes the current application for reinstatement; the agency record in Respondent's 1992 case, which included the revocation of his license; Respondent's Exhibit #1, a letter of reference; and the statements of the parties, makes the following findings of fact:

1. Respondent was issued license number 23-016324-112, which was revoked by a Proposed Default Order and Nunc Pro Tunc Order filed with the Board on February 21, 1994;
2. The Proposed Default Order and Nunc Pro Tunc Order were served on the Respondent at his last address known to Board on February 21, 1994, at 6923 Towerview Lane, Topeka, Kansas 66619;
3. The Proposed Default Order included a notice to the Respondent of his rights regarding the order and that the order would become effective if no action was taken by the Respondent;
4. Respondent did not take any action regarding the Proposed Default Order and it became an effective order revoking the Respondent's L.P.N. license to practice in Kansas;
5. Respondent testified in this April, 1995 hearing, that he did not receive the notices and orders in the 1992 case because he moved and did not advise the Board of his change of address;

6. While Respondent now denies the allegations in the 1992 case Petition and findings in the Order for that case, the findings that Respondent committed the act(s) alleged and found in that case stand as the findings against the Respondent;

7. Respondent's current application indicates that he is qualified to be licensed as a licensed practical nurse in the State of Kansas;

8. Respondent had been previously licensed in California and Kansas from 1984-1994. Other than the 1992 case, no other disciplinary action has been taken against the Respondent's license.

CONCLUSIONS OF LAW

1. The Board and this Hearing Officer have jurisdiction to hear this matter pursuant to the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., and the Kansas Administrative Procedures Act, K.S.A. 77- 501 et seq. Respondent stipulates to such jurisdiction.

2. The Board, and by designation the Hearing Officer, have the authority, after a finding of a violation of the Nurse Practice Act, to implement any of the disciplinary options identified in K.S.A. 65-1120 against the Respondent's license to practice nursing in the state of Kansas, pursuant to the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., and the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

3. K.S.A. 65-1120(b) requires these proceedings of the Board to be conducted pursuant to the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

4. Notice of Hearing and service were done in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq., and are therefore proper.

5. The 1994 order issued by the Board by a designated hearing officer revoked the Respondent's license to practice nursing as an L.P.N. in the State of Kansas.

6. The Respondent's application for reinstatement of his license may denied, revoked, suspended, limited, or other action pursuant to K.S.A. 65-1120, because he has been previously found to have violated the Kansas Nurse Practice Act.

ORDER

Based on the agreement of the parties, and the above findings of fact and conclusions of law, IT IS THEREFORE ORDERED pursuant to the disciplinary remedies available under K.S.A. 65-1120(a), the following action shall be taken regarding the Respondent's application for reinstatement of his L.P.N. license:

1. Respondent shall obtain six (6) additional hours of continuing education in the areas of the administration of medication and/or the importance of following physicians' orders.

2. Respondent shall pay twenty-five (\$25.00) dollars in costs to the Board of Nursing. The payment shall be made by cashier's check or money order payable to the Board of Nursing.


3. Upon submission of proof of obtaining six (6) additional hours of continuing education, and upon payment of the costs, the Respondent's application for reinstatement of his license to

practice as a L.P.N. in the State of Kansas shall be granted and he shall be licensed as an L.P.N. in the State of Kansas.

4. Once the Respondent completes requirements 1 and 2 listed above and Respondent is issued his license, he shall cause quarterly reports to be submitted by his closest nursing supervisor to the Board of Nursing to the attention of the Board's Practice Specialist. Said quarterly reports shall be submitted for a one-year period after licensure. Respondent shall notify the Board's Practice Specialist within ten (10) days of obtaining any employment or any employment changes, as well as the name of his closest nursing supervisor who will be submitting the quarterly reports. The Board's Practice Specialist will contact the employer and supervisor to provide information explaining what will be expected in the report and to establish dates the quarterly reports shall be due. Generally, the reports about this Respondent shall contain information about the Respondent's performance as a nurse. Specifically, the reports shall contain information about the Respondent's ability or inability to properly administer and document medications given, as well as his ability or inability to follow physician's orders.

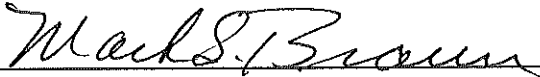
5. This matter shall be reviewed one year after Respondent receives his license. The review shall be conducted to review the four (4) quarterly reports have been received by the Board to determine whether any further monitoring of the Respondent will be necessary.

IT IS SO ORDERED.



Terry E. Beck
Hearing Officer

Prepared and Submitted by:



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NOTICE REGARDING RELIEF FROM THIS ORDER
STATEMENT OF APPEAL RIGHTS

This is an Initial Order. The parties to whom this Initial Order is issued may file a petition for review with the Agency Head within fifteen (15) days after service of this order. The petition for review must state the specific grounds upon which relief is requested. Unless a later date is stated within the Initial Order, a stay is granted, or the order is reviewed, an Initial Order shall become a final order without further notice or proceedings thirty (30) days after the date of service as indicated by the attached certificate of service.

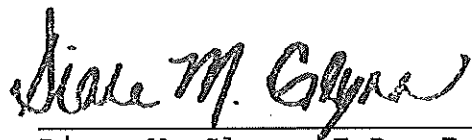
CERTIFICATE OF SERVICE

This is to certify that on the 3rd day of May, 1995, I deposited a true and correct copy of the Initial Order in the United States Mail, first class mail, postage prepaid to the following:

Robert Agee
6908 Montara Way
Topeka, Kansas 66619

and by hand delivery to:

Mark S. Braun
Assistant Attorney General
Disciplinary Counsel
Kansas State Board of Nursing
900 S.W. Jackson Rm 551-S
Topeka, Kansas 66612-1230



Diane M. Glynn, J.D., R.N.
Practice Specialist