

KANSAS STATE BOARD OF NURSING

Landon State Office Building
900 SW Jackson, Suite 1051
Topeka, Kansas 66612-1230

FILED

JUL 21 2011

KSBN

IN THE MATTER OF

Roger D. King

License No. 23-021579-012

**Case Nos. 01-220-3,
02-361-5, 03-358-3, 06-
388-0, and 10-107-3
OAH No. 11BN0043**

**FINAL ORDER
DENYING REVIEW**

Pursuant to K.S.A. 77-526 and K.S.A. 2010 Supp. 77-527

Now, on this 15th day of July 2011, the above-captioned matter comes on for consideration of Roger D. King's (Respondent's) Petition for Review of the Initial Order issued by the Presiding Officer of the Office of Administrative Hearings. Pursuant to K.S.A. 2010 Supp. 77-527(a)(2)(B), the members of the Kansas State Board of Nursing (Board) have delegated their authority to determine whether to review the initial order to its President, Jeanne Walsh.

Findings of Fact

1. On June 29, 2011, the Presiding Officer of the Office of Administrative Hearings issued the Initial Order. The findings of fact and conclusions of law contained in the Initial Order are hereby adopted by reference.
2. On July 5, 2011, Respondent filed a timely Petition for Review with the Board as authorized in K.S.A. 2010 Supp. 77-527.
3. Respondent's Petition did not state the basis for review as required in K.S.A. 2010 Supp. 77-527(c) or deny the eight violations found in the Initial Order.
4. Respondent's Petition did not challenge any factual findings made in the Initial Order or allege any new facts that would change the outcome of the Initial Order.
5. Respondent's Petition did not contend the decision in Initial Order was based upon an erroneous interpretation or application of the law.


Conclusions of Law

6. Based upon the above findings, there is no factual or legal basis that would change the findings of fact or conclusions of law in the Initial Order.
7. The findings of fact, conclusions of law, and denial of Respondent's application for reinstatement of his nursing license as contained in the Initial Order should be affirmed and Respondent's Petition for Review of the Initial Order should be denied.

Order

WHEREFORE, after consideration of the above facts and conclusions, it is the decision and order of the Board that the Initial Order is affirmed and that Respondent's Request for Review is denied.

IT IS SO ORDERED.



Jeanne Walsh, President
Kansas State Board of Nursing

**NOTICE OF OTHER ADMINISTRATIVE RELIEF
AND JUDICIAL RELIEF**

The above Order Denying Respondent's Request for Review is a Final Order. Pursuant to K.S.A. 77-529, a party may file with the Board a petition for reconsideration within 15 days from the date noted below in the Certificate of Service. Such petition must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking judicial review.

Pursuant to K.S.A. 77-530, a party may file a petition for stay of effectiveness of the order, if applicable, prior to the expiration of the time in which to file a petition for judicial review. The filing of a petition for a stay of effectiveness is not a prerequisite for seeking judicial review.

Pursuant to K.S.A. 77-613, a party may file within 30 days from the date noted below in the Certificate of Service a petition for judicial review with the appropriate district court as provided in the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*

The agency officer who may receive service of a petition for stay of effectiveness, a petition for reconsideration, or a petition for judicial review on behalf of the Board is Mary Blubaugh, Executive Director, Kansas State Board of Nursing, Landon State Office Building, 900 S.W. Jackson, Ste. #1051, Topeka, Kansas 66612-1230.

CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2011, a copy of the above Order and Notice was deposited with the United States Postal Service, postage pre-paid, and addressed to:

Roger G. King
1606 N. Maple Street
Russell, KS 67665

and hand delivered to:

Alma A. Heckler
Disciplinary Counsel
Kansas State Board of Nursing
900 SW Jackson, Suite 1051
Topeka, KS 66612



Staff
Kansas State Board of Nursing

BEFORE THE KANSAS STATE BOARD OF NURSING

KSBN

IN THE MATTER OF

Case No. 01-220-3, 02-162-3,
02-361-5, 03-358-3,
06-388-0 & 10-107-3

Roger D. King
License No. 23-021579-012

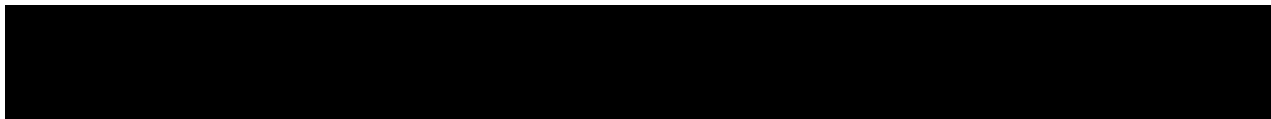
OAH No. 11BN0043

INITIAL ORDER

Now on this 5th day of May 2011, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing (Board). Sandra L. Sharon was duly appointed as 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, Roger D. King, appears in person.

Findings of Fact

1.



2.



3.

On September 9, 2002, the respondent entered into a Consent Agreement and Final Order with the Board that he would continue to practice nursing in the State of Kansas in compliance with specific restrictions and requirements outlined in the Consent Agreement and Final Order.

4.



5.

In July 2004, the respondent was found guilty of felony Burglary in District Court of Ellis County, Kansas. The respondent was placed on probation in this matter.

6.

On March 10, 2006, the respondent's license to practice nursing in the State of Washington was revoked.

7.

The respondent was found guilty of felony Forgery in 2007 in the District Court of Ellis County. The respondent was placed on probation in this matter.

8.

The respondent's probation was revoked by the District Court of Ellis County on February 11, 2008.

9. The respondent violated the September 9, 2002 Consent Agreement and Final Order he entered into with the Board and the Board petitioned to revoke his license to practice nursing in the State of Kansas.
10. The respondent defaulted on the petition to revoke his license to practice nursing in the State of Kansas on October 29, 2003.
11. The respondent filed a reinstatement application with the Board on February 3, 2010.
12. A hearing on the Board's petition to deny the reinstatement application was held May 5, 2011. At the hearing, the respondent asserted that he is currently in the right mindset to practice nursing. He indicated he has been sober since March 16, 2007.

Applicable Law

1. The Board has the authority to deny, revoke, limit, or suspend any license to practice nursing applied for to the Board when there has been a showing of violations of the Kansas Nurse Practice Act. Kansas Statutes Annotated (K.S.A.) 65-1120.
2. *Vakas v. Kansas State Board of Healing Arts, 248 Kan. 589, (1991)*, outlines factors to be considered in determining whether a license should be reinstated after a disciplinary finding. They are as follows:
 - The present moral fitness of the petitioner;
 - The demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought the profession;
 - The extent of petitioner's rehabilitation;
 - The nature and seriousness of the original misconduct;
 - The conduct subsequent to discipline;
 - The time elapsed since the original discipline;
 - The petitioner's character, maturity, and experience at the time of the original revocation;
 - The petitioner's present competence in medical skills.

Discussion

1. The Board has shown the respondent's violation of the Kansas Nurse Practice Act as follows:

Count 1 K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(r), failing to comply with any disciplinary order of the board.

Count 2 K.S.A. 65-1120(a)(6), [REDACTED]

- Count 3 K.S.A. 65-1120(a)(1), to be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing.
- Count 4 K.S.A. 65-1120(a)(2), to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense without establishing sufficient rehabilitation to warrant the public trust.
- Count 5 K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol.
- Count 6 K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board.
- Count 7 K.S.A. 65-1120(a)(6), unprofessional conduct by K.A.R. 60-3-110(g), verbal abuse, which shall be defined as any word or phrase spoken inappropriately to or in the presence of a patient that results in or might reasonably be expected to result in the patient's unnecessary fear, emotional distress, or mental distress.
- Count 8 K.S.A. 65-1120(a)(8), to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country.
2. Other than his testimony and testimony of the respondent's girlfriend, there is no showing that the respondent has met the factors outlined in *Vakas* to support reinstatement of his license to practice nursing in the State of Kansas.

Conclusion

1. The Board's petition to deny the respondent's reinstatement application is 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.



Sandra L. Sharon
Presiding Officer
Office of Administrative Hearings
1020 S. Kansas Ave.
Topeka, KS 66612

CERTIFICATE OF SERVICE

On June 24, 2011, I mailed a copy of this document to:

Roger D. King
1606 N. Maple St.
Russell, KS 67665

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