

**KANSAS STATE BOARD OF NURSING**

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

**FILED**

**NOV 14 2011**

**KSBN**

**IN THE MATTER OF**

**Tony J. Huff**  
**License No. 23-37136-072**

**Case No. 10-858-9**  
**OAH No. 11-BN-0071**

**FINAL ORDER**  
**DENYING RECONSIDERATION**

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

Now, on this 10<sup>TH</sup> day of November 2011, the above-captioned matter came before the Kansas State Board of Nursing (Board) for consideration of Tony J. Huff's (Respondent's) Petition for Reconsideration. The following Board members were present: Serena Stutzman, Jane Conroy, Jeanne Walsh, Mary Carol Pomatto, and Bob Harvey. The Board hereby designates its Serena Stutzman, President, to presiding over the proceeding and issue the Board's decision. Ms. Danielle R. Sanger, Disciplinary Counsel appeared for the Board and Mr. Tony J. Huff appeared in person.

Findings of Fact

1. The findings, conclusions, and decisions in the Order Denying Review issued in this matter on 7<sup>th</sup> day of October 2011 are hereby adopted and incorporated by reference.
2. On October 24, 2011, Respondent filed with the Board a Petition for Reconsideration of its order denying review. Respondent stated he was not prepared for the hearing in this matter and did not know how to proceed at that hearing. He requested the Board to give him the opportunity to properly defend his nursing license.

Conclusions of Law

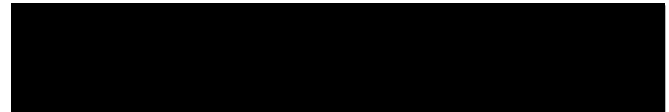
3. The statute governing review of an initial order, K.S.A. 2010 Supp. 77-527(d), states, in pertinent part, "In reviewing findings of fact in the initial orders by presiding officers, the agency head shall give due regard to the presiding officer's opportunity to observe the witnesses and to determine the credibility of witnesses. The agency head shall consider the agency record of such portions of it as have been designated by the parties." Thus, the Board only reviews the record and does not conduct another evidentiary hearing.
4. Because the Board is not authorized to give Respondent another evidentiary hearing and Respondent does not contend the Board erred in denying his petition for review, there is no reason to reconsider the order denying initial review.

5. The Order denying review of the initial order should be affirmed and Respondent's Petition for Reconsideration should be denied.

Order

WHEREFORE, after consideration of the above facts and conclusions, it is the decision and order of the Board that the Order denying review of the initial order is affirmed and that Respondent's Petition for Reconsideration is denied.

IT IS SO ORDERED.



Serena Stutzman, President  
Kansas State Board of Nursing

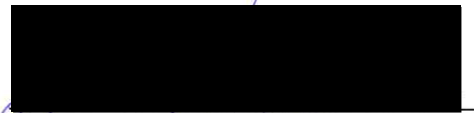
**NOTICE OF OTHER ADMINISTRATIVE RELIEF  
AND JUDICIAL RELIEF**

The above Order Denying Respondent's Petition for Reconsideration is a final order. 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 designee 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 November 14, 2011, a copy of the above Order and Notice was deposited with the United States Postal Service, postage pre-paid, and addressed to: Tony J. Huff, 818 N. Maple, McPherson, KS 67460, and hand delivered to: Danielle R. Sanger, 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

FILED

SEP 16 2011

IN THE MATTER OF  
Tony J. Huff  
License No. 23 37136 072

Case No. 10 858 9 KSBN  
OAH No. 11BN0071

**INITIAL ORDER**  
NUNC PRO TUNC

Now on this 24th day of August 2011, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing. Sandra L. Sharon was appointed Presiding Officer pursuant to K.S.A. 77-514. The Petitioner, the Kansas State Board of Nursing (Board), appears through Assistant Attorney General, Danielle R. Sanger, Disciplinary Counsel for the Board. The Respondent, Tony J. Huff, appears in person.

Findings of Fact

1. On or about January 25, 2008, the respondent filed an initial application for an LPN license. On this application, the respondent answered "no" to the question about whether he had ever been convicted of a misdemeanor.
2. On or about July 12, 2010, the respondent filed a renewal application with the Board for his LPN license.
3. On the renewal application, the respondent answered yes to the question about whether he had been convicted of a misdemeanor.
4. In letters dated July 30, 2010 and October 26, 2010, the Board requested certified copies of court documents for each misdemeanor conviction along with an explanatory letter.
5. The respondent did not provide this documentation and the Board conducted a KBI criminal records check. The Board discovered that the respondent had five previous convictions which are:
  - a. The respondent was convicted of theft in the McPherson District Court on October 14, 1996.
  - b. The respondent was convicted of theft in McPherson Municipal Court on October 25, 1996.
  - c. The respondent was convicted of DUI and reckless driving in the Wichita Municipal Court on April 27, 2000.
  - d. The respondent was convicted of driving without liability insurance in Newton Municipal Court on February 9, 2006.
  - e. The respondent was convicted of driving without liability insurance in Newton Municipal Court on July 26, 2006.

6. The Board had received no documents from the respondent by December 13, 2010.
7. On December 17, 2010, the respondent's case was referred to the Board's Disciplinary Counsel.
8. By January 7, 2011, no certified legal documents had been received by the respondent.
9. On or about February 24, 2011, the Board received uncertified documents from the respondent regarding his legal issues at the McPherson Municipal Court. Disciplinary Counsel contacted the respondent by phone on February 25, 2011 and requested certified copies of court documents.
10. In a letter dated March 22, 2011, Disciplinary Counsel for the Board again requested certified court documents for each misdemeanor conviction along with an explanatory letter.
11. The requested documents were never received by the Board.

#### Conclusions of Law

1. Pursuant to Kansas Statutes Annotated (K.S.A.) 65-1120(a), the Board has authority to deny, revoke, limit, or suspend any license to practice nursing issued by the Board or applied for before the Board.
2. Grounds to revoke, deny, limit, or suspend any license to practice nursing in the State of Kansas include fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing. K.S.A. 65-1120(a)(1).
3. To be found guilty of unprofessional conduct pursuant to the rules and regulations of the Board is also reason for the Board to deny, revoke, limit, or suspend any license it has issued to practice nursing in the State of Kansas. K.S.A. 65-1120(a)(6).
4. Unprofessional conduct includes failing to furnish the Board, its investigators, or its representatives with any information legally requested by the Board. Kansas Administrative Regulation (K.A.R.) 30-6-110(t).

#### Conclusion

1. When the respondent procured his license to practice as a LPN in the State of Kansas in January 2008, he did so by fraud or deceit by failing to report that he had been convicted of misdemeanors. This is a violation of K.S.A. 65-1120(a)(1).
2. When the respondent failed to provide certified court documents regarding his felony convictions after five written requests and two oral requests for certified copies of court documents related to his misdemeanors, he committed unprofessional conduct by failing

to furnish the Board or its investigators with information legally requested by the Board. This is a violation of K.S.A. 65-1120(a)(6) and K.A.R. 30-6-110(t).

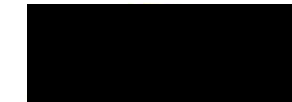
3. The Board's petition that the respondent's license to practice nursing in the State of Kansas be revoked is affirmed.
4. The cost of this action shall be assessed against the respondent in the amount of \$70.00 pursuant to K.S.A. 65-1120(d).

#### 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.



---

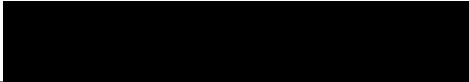
Sandra L. Sharon  
Administrative Law Judge/Presiding Officer  
Office of Administrative Hearings  
1020 S. Kansas Ave.  
Topeka, KS 66612

CERTIFICATE OF SERVICE

On Sept 16, 2011, I mailed a copy of this document to:

Tony J. Huff  
818 N. Maple  
McPherson, KS 67460

Mary Blubaugh, Executive Director  
Danielle R. Sanger, Assistant Attorney General  
Kansas State Board of Nursing  
900 SW Jackson, LSOB, Ste. 1051  
Topeka, KS 66612

  
Staff Person  
Office of Administrative Hearings