

KANSAS STATE BOARD OF NURSING
Landon State Office Building
900 SW Jackson, Suite 1051
Topeka, Kansas 66612-1230

FILED

MAR 05 2012

KSBN

IN THE MATTER OF

Sadie Allen
License No. Endorsement

Case No. 11-1019-0
OAH No. 12-BN-0037

ORDER
DENYING RECONSIDERATION

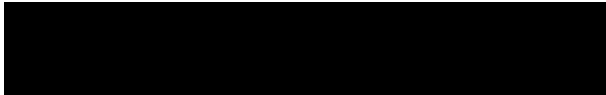
Pursuant to K.S.A. 77-526 and K.S.A. 2011 Supp. 77-529

Now, on this 5th day of March 2012, the above-captioned matter comes on for consideration of Sadie Allen's (Respondent's) Petition for Reconsideration of the Order Denying Respondent's Petition for Review. Pursuant to K.S.A. 2011 Supp. 77-527(a)(2)(B), the Kansas State Board of Nursing (Board) has delegated its authority to Board member Jeanne Walsh to determine whether to grant a Petition for Reconsideration.

1. On February 21, 2012, the Board issued its Order Denying Respondent's Petition for Review of the Initial Order by the Administrative Hearing Office. That Initial Order denied Respondent's application for licensure to practice nursing in Kansas.
2. On February 27, 2012, the Board received Respondent's Petition for Reconsideration. Respondent's Petition fails to show that any factual or legal error exists that warrants the reconsideration of the matter.
3. The Board, therefore, concludes that Respondent has not shown cause to reconsider its Order denying review of the Initial Order and that Respondent's Petition for Reconsideration be denied.

WHEREFORE, after consideration of the above, it is the decision and order of the Board that Respondent's Petition for Reconsideration be denied.

IT IS SO ORDERED.


Jeanne Walsh, Board Member
Kansas State Board of Nursing

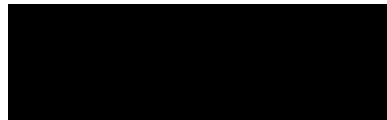
NOTICE OF JUDICIAL RELIEF

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.* Pursuant to K.S.A. 77-531, if the above Order is served by mail, three days are added to the prescribed period. Pursuant to K.S.A. 77-530, if such petition is not filed, this order shall become effective as a final order 30 days after service.

The agency designee who may receive service of a petition for judicial review on behalf of the Board is Mary Blubaugh, Executive Administrator, 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 March 5, 2012, a copy of the above Order and Notice was deposited with the United States Postal Service, postage pre-paid, and addressed to: Sadie Allen, 308 NW 73rd Terr., Gladstone, MO 64118, 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

FILED

FEB 21 2012

KSBN

KANSAS STATE BOARD OF NURSING

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

IN THE MATTER OF

Sadie Allen
License No. Endorsement

Case No. 11-1019-0
OAH No. 12-BN-0037

ORDER
DENYING REVIEW

Pursuant to K.S.A. 77-526 and K.S.A. 2011 Supp. 77-527

Now, on this 21st day of February 2012, the above-captioned matter comes on for consideration of Sadie Allen'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. 2011 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 an initial order to its Board Member, Jeanne Walsh.

Findings of Fact

1. On February 8, 2012, the Presiding Officer of the Office of Administrative Hearings issued an Initial Order in the above-referenced matter. The Initial Order granted the Board's petition and affirmed the Board's Summary Proceeding Order denying Respondent's license to practice nursing in the State of Kansas. The Board hereby adopts by reference the findings of fact and conclusions of law contained in that Initial Order.

2. On February 16, 2012, Respondent filed a timely Petition for Review with the Board.

3. In her Petition, Respondent did not allege new facts that would change the outcome of the Initial Order, challenge any factual findings in the Initial Order, or contend the decision in the Initial Order was based upon facts not supported by the record. Nor did Respondent claim the hearing officer erroneously interpreted or applied the law. In short, Respondent seeks a different outcome on the same facts heard by the Presiding Officer.

Conclusions of Law

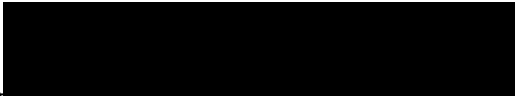
4. Based upon the above findings, no factual or legal basis exists that would change the findings of fact or conclusions of law in the Initial Order.

5. The findings of fact, conclusions of law, and orders 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 Petition for Review is denied.

IT IS SO ORDERED.


Jeanne Walsh, Board Member
Kansas State Board of Nursing

NOTICE OF ADMINISTRATIVE 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.

NOTICE OF JUDICIAL RELIEF

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 Administrator, 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 February 21st 2012, a copy of the above Order and Notices was deposited with the United States Postal Service, postage pre-paid, and addressed to: Sadie Allen, 308 NW 73rd Terr., Gladstone, MO 64118, 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

FILED

FEB - 8 2012

KSBN

IN THE MATTER OF
SADIE ALLEN
License No. Endorsement

Case No. 11 1019 0
OAH No. 12BN0037

INITIAL ORDER

Now on this 24th day of January 2012, the above-captioned matter comes on for hearing before the Kansas State Board of Nursing. 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 by Assistant Attorney General Alma A. Heckler, Disciplinary Counsel for the Board. The Respondent, Sadie Allen, appears in person.

Findings of Fact

1. On August 5, 2011, the Petitioner received an endorsement application from the Respondent for her license to practice nursing in the state of Kansas.
2. At Question 9, the Respondent was asked, “[h]ave you ever been convicted of a misdemeanor listed in K.A.R. 60-3-113?” The Respondent indicated yes. She explained that she had plead no contest to a driving while intoxicated (DWI) charge in Ellis County, Texas. The Respondent was placed on Community Supervision related to this conviction.
3. At Question 11, the Respondent was asked, “[a]re criminal proceedings pending in any federal or state court?” The Respondent indicated no.
4. At Question 13, the Respondent was asked, “[h]as any license, certification or registration (nursing or other) ever been denied, revoked, suspended, limited or disciplinary action taken by a licensing authority of any state, agency of the US government, territory of the US or country?” The Respondent answered no.
5. The Respondent failed to successfully complete Community Supervision in Ellis County, Texas. Further, she failed to pay all fines and fees related to this conviction. As a result, there is currently an outstanding warrant in Ellis County, Texas for the Respondent’s arrest related to these violations.
6. The Respondent opts to do nothing regarding her legal issues in Texas. She explains that her trouble in Texas occurred many years ago and that she is a much different person now than she was at that time. She believes that in order to clear up this matter, she would have to return to Texas and serve 180 days in jail. The Respondent believes that at this time this is not a viable option for her considering her family circumstances.

Applicable Law

1. Pursuant to K.S.A. 65-1120, the Board has authorization to deny, revoke, limit or suspend any license or application to practice nursing in the state of Kansas.
2. Reasons to take action against a license or an application to practice nursing in the state of Kansas include being guilty of fraud or deceit in practicing nursing or procuring or attempting to procure a license to practice nursing. K.S.A. 65-1120(a)(1).
3. To have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust. K.S.A. 65-1120(a)(2).

Discussion

1. As to the Board's concern regarding the Respondent's misdemeanor DWI, K.S.A. 65-1120(a)(2) allows the Board to deny the Respondent's endorsement application due to her DWI and failure to successfully complete her Community Supervision in Ellis County, Texas. K.S.A. 65-1120(a)(2) allows the applicant to establish sufficient rehabilitation to warrant the public trust when there has been such an offense. However strongly the appellant asserts that she is rehabilitated and is now a responsible adult, the fact remains that she has failed Community Supervision in Ellis County, Texas and opts to avoid facing the consequences of her behavior. This issue remains unresolved.
2. The Respondent has failed to show, first by failing to complete Community Supervision and second by choosing not to deal with her legal issues, that she has sufficiently rehabilitated herself to warrant public trust.
3. It is clear that the Respondent incorrectly answered Questions 11 and 13 on her endorsement application. A finding whether this was intentional on the Respondent's behalf in order to obtain or procure a license to practice nursing does not need to be determined.
4. The Respondent's actions are a violation of the Kansas Nurse Practice Act and the Board's actions denying her application are within its authority and hereby affirmed.

Conclusion

The action of the Board is affirmed.

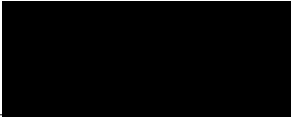
Cost of this action shall be assessed against the respondent in the amount of \$70.00 pursuant to K.S.A. 65-1120(d).

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, 900 SW Jackson, Suite 1051, 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
Telephone: 785-296-2433

CERTIFICATE OF SERVICE

On Feb. 17, 2012, I mailed a copy of this document to:

Sadie Allen
308 NW 73rd Terr.
Gladstone, MO 64118

Mary Blubaugh, Executive Director
Alma A. Heckler, Assistant Attorney General
Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612-1230


Staff Person
Office of Administrative Hearings