

**BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS**

IN THE MATTER )  
OF THE APPLICATION FOR )  
REINSTATEMENT OF REGISTRATION )  
AS RESPIRATORY THERAPIST OF )  
DAVID L. CRESWELL, )  
\_\_\_\_\_ )

ORDER DENYING APPLICATION FOR REINSTATEMENT

NOW on this 15th day of June, 1990, comes on for hearing by Summary Proceeding the Application for Reinstatement of Registration as a respiratory therapist in the State of Kansas filed by David L. Creswell (hereafter "Applicant"). Members of the Board present were: Franklin Bichlmeier, M.D., President, Donald B. Bletz, M.D., Cameron D. Knackstedt, D.O., Rex A. Wright, D.C., John P. White, D.O., Vice-President, P. Tom Greene, D.C., Glenn J. Kerbs, Edward J. Fitzgerald, M.D., Irwin Waxman, DPM, Jimmy Buller, D.O., Harold E. Bryan, D.C. and Joseph Philipp, M.D.

Applicant appeared in person without counsel. Lawrence T. Buening, Jr., General Counsel, appeared on behalf of the Board. There were no other appearances.

After hearing the testimony of Applicant, arguments of counsel, reviewing the two applications filed by Applicant together with accompanying documents and being otherwise duly advised in the premises, the Board finds as follows:

## FINDINGS OF FACT

1. Notice of this hearing has been given as required by law and that prove thereof has been duly filed herein.

2. Applicant was originally granted registration number 16-354 as a respiratory therapist in the State of Kansas on August 15, 1987.

3. Applicant's registration as a respiratory therapist in the State of Kansas was cancelled on February 2, 1988 for non-renewal and non-payment of the annual renewal fee.

4. On May 11, 1990, Applicant's application for reinstatement was received in the Board office together with certain accompanying documents.

5. On May 21, 1990, Applicant was notified of certain errors and omissions in the application for reinstatement pursuant to K.S.A. 77-511.

6. In answer to questions number six, nine and 12 on the application for reinstatement, Applicant answered each of these in the negative.

7. From and since receipt of the application, the Board has received information indicating Applicant had previously been issued license number 536 by the Department of Health of the State of Nebraska to practice respiratory care and that said license was suspended for a period of six months and thereafter placed on probation for a period of 36 months, the period of probation not having yet expired. Administrative notice of such proceeding is taken by the Board.

8. From and since receipt of the application, the Board received information Applicant was convicted of one count of obtaining drugs by prescription fraud, a Class IV felony in the District Court of Sarpy County, Nebraska. Administrative notice of such proceeding is taken by the Board.

9. On June 13, 1990, the Board received a second application for reinstatement filed by Applicant in which questions numbered six, nine and 12 were answered in the affirmative.

10. At the hearing in this matter, Applicant admitted to his conviction and to the suspension and subsequent probation of his license to practice respiratory therapy in the State of Nebraska.

#### CONCLUSIONS OF LAW

11. The suspension and subsequent probation of Applicant's license to practice respiratory therapy in the State of Nebraska constitutes unprofessional conduct as defined in K.A.R. 100-55-4 and constitutes grounds for which the application for reinstatement may be denied pursuant to K.S.A. 1989 Supp. 65-5510(a)(2).

12. The conviction of the felony of obtaining drugs by a prescription fraud has a direct bearing on whether Applicant should be entrusted to serve the public in the capacity of a respiratory therapist and constitutes grounds for denial of Applicant's application for reinstatement pursuant to K.S.A. 1989 Supp. 65-5510(a)(3).

13. That by failing to answer questions numbered six, nine and 12 truthfully on the application for reinstatement received May 11, 1990, Applicant is guilty of unprofessional conduct as defined

in K.A.R. 100-55-5(h) and (q) and constitutes grounds for denial pursuant to K.S.A. 1989 Supp. 65-5510(a)(2).

IT IS THEREFORE BY THE BOARD ORDERED AS FOLLOWS:

A. Applicant's application for reinstatement received in the Board office May 11, 1990 and the second application received in the Board office June 13, 1990 should both be denied.

B. Applicant, pursuant to K.S.A. 77-511 and 77-537 is entitled to request a further hearing before the Board or Presiding Officer appointed by the Board on his applications for reinstatement.

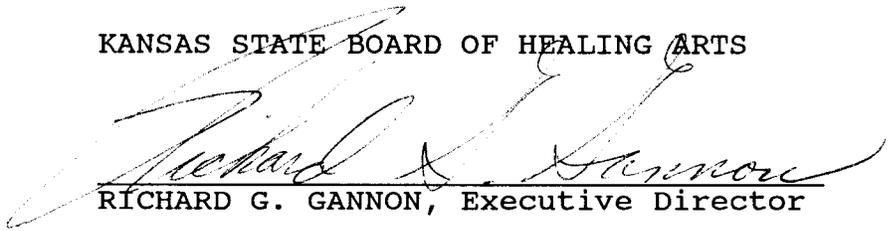
C. A request by Applicant for a hearing must be made in writing to the Kansas State Board of Healing Arts, 235 S. Topeka Blvd., Topeka, Kansas 66603 within fifteen (15) days after service of this Order on Applicant.

D. This Order will become effective if a hearing is not requested as above stated upon the expiration of the time requesting such a hearing.

IT IS SO ORDERED.

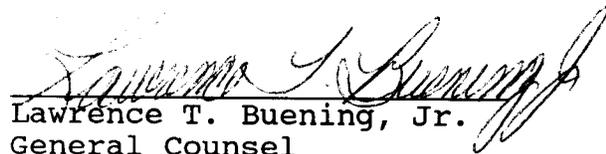
DATED this 19<sup>th</sup> day of July, 1990.

KANSAS STATE BOARD OF HEALING ARTS



RICHARD G. GANNON, Executive Director

Prepared and Approved by:



Lawrence T. Buening, Jr.  
General Counsel  
Kansas State Board of  
Healing Arts  
235 S. Topeka Blvd.  
Topeka, Kansas 66603  
(913) 296-7413

CERTIFICATE OF SERVICE

I, Lawrence T. Buening, Jr., do hereby certify that on the 19th day of July, 1990, a true and correct copy of the above and foregoing Order Denying Application for Reinstatement was deposited in the United States mail, first class, postage prepaid, addressed to:

David L. Creswell  
4745 Falmouth  
Shawnee Mission, KS 66207



Lawrence T. Buening, Jr.