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SEP 10 2010

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)
)
Michael Charles Nickell, RT)
)
Kansas License No. 16-02430)

Docket No. 10-HA00037

JOURNAL ENTRY

NOW, on this 9th day of September 2010, the above-entitled matter comes on before Kathleen Selzler Lippert, Executive Director of the Kansas State Board of Healing Arts. After reviewing the file and being duly advised in the premises, the Executive Director makes the following determinations.

1. On March 24, 2010, the Executive Director, on behalf of the Board, issued a Summary Order which it was determined that Michael Charles Nickell, RT license should be suspended for failure to provide documented evidence of the minimum continuing education hours, effective the date of the order.

2. The Summary Order contained a notice that a written request for hearing could be filed within 15 days following service, but if no hearing is requested, the Summary Order would become effective as a final order of the Board upon expiration of the time for requesting a hearing.

3. No hearing has been requested by any party and; therefore, the Summary Order became effective on April 13, 2010.

DATED this 9 day of September 2010.

KANSAS STATE BOARD OF HEALING ARTS

Kathleen Selzler Lippert
Executive Director

CERTIFICATE OF SERVICE

I, do hereby certify that on the 10th day of September, 2010, a true and correct copy of the above and foregoing was deposited in the United States mail, first class postage prepaid to the following:

Michael Charles Nickell RT
2616 C St
1
Garden City, KS 67846

and a copy hand delivered to the office of:

Stacy Bond
Associate Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, KS 66603-3068

Katy Lenahan
Licensing Administrator
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, KS 66603-3068

and the original filed with the office of the Acting Executive Director.


Cathy Brown
Executive Assistant

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KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)
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Michael Charles Nickell, RT)
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Kansas License No. 16-02430)

Docket No. 10-HA00037

SUMMARY ORDER

NOW ON THIS 24 day of March, 2010, this matter comes before Kathleen Selzler Lippert, Acting Executive Director, Kansas State Board of Healing Arts (“Board”), in summary proceedings pursuant to K.S.A. 77-537.

After reviewing the agency record and being duly advised in the premises, the following findings of fact, conclusions of law and order are made for and on behalf of the Board:

1. Michael Charles Nickell, RT (“Licensee”) was originally issued license number 16-02430 to practice as a respiratory therapist in the State of Kansas on July 1, 1999.
2. On or about April 30, 2009, Licensee submitted an application for renewal of their license.
3. Pursuant to K.S.A. 65-5512 and K.A.R. 100-55-7 each Licensee desiring to renew a respiratory therapy license must have completed at least 12 credits of continuing education and to provide proof of completion to the Board upon request
4. As part of the renewal process, Licensee certified that the rules regarding continuing education had been read, that compliance had been achieved, and that documentation of the continuing education would be maintained for a three-year period and produced to the Board upon request.

5. Licensee was randomly selected to provide verification of compliance with the continuing education requirements and on June 16, 2009, a letter was mailed to Licensee requesting that Licensee provide no later than July 20, 2009, the records relied upon when Licensee certified achievement of the required continuing education.

6. A second letter requesting proof of continuing education by August 7, 2009 was sent to licensee on July 21, 2009 by certified mail through the United States Postal Service.

7. The second request letter was signed for by the licensee on July 27, 2009.

8. Licensee failed to provide documented evidence of continuing education by the due date.

9. A Summary Order was filed on October 2, 2009 for failure to respond to the audit.

10. A Final Order was filed on December 9, 2009, stating the Summary Order had become effective as a Final Order on October 20, 2009 and that no hearing had been requested.

11. By failing to provide documented evidence of his continuing education, Licensee has violated K.S.A. 65-5510(a)(4), violating any lawful order or rule and regulation of the board, specifically K.A.R. 100-55-5(h) failing to furnish to the Board, or to its investigators or representatives, any information legally requested by the Board.

12. In addition to any other penalty prescribed under the Respiratory Therapy Practice Act, K.S.A. 65-5510 authorizes the Board to assess an administrative fine in an amount not exceeding \$5,000 for the first violation of the Respiratory Therapy Practice Act.

IT IS, THEREFORE, ORDERED Licensee is hereby fined \$100 for failure to respond to the Board's legal request for information. The fine is due within fifteen days of the effective date of this order.

IT IS FURTHER ORDERED that licensee shall submit proof of the continuing education requirements for the previous year to the Board with fifteen days following service of this summary order.

IT IS FURTHER ORDERED that licensee's license shall be suspended for failure to provide the continuing education and payment of the fine.

PLEASE TAKE NOTICE that this is a summary order. A party to whom a summary order is issued may file a written request for a hearing within 15 days following service of the summary order. If a hearing is not requested, the summary order shall become effective as a final order of the Board upon expiration of the time for requesting a hearing. A request for a hearing must be addressed to Jack Confer, Executive Director, 235 South Topeka Boulevard, Topeka, Kansas 66603.

DATED this 24 day of March, 2010.

HEALING ARTS

KANSAS STATE BOARD OF


Kathleen Seizler Lippert
Acting Executive Director

CERTIFICATE OF SERVICE

I, do hereby certify that on the 24th day of March, 2010, a true and correct copy of the above and foregoing was deposited in the United States mail, first class postage prepaid to the following:

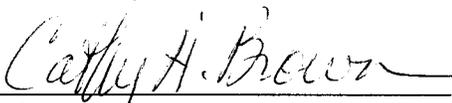
Michael Charles Nickell RT
305 Santa Fe Ave
Holcomb, KS 67851

and a copy hand delivered to the office of:

Stacy Bond
Associate Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, KS 66603-3068

Katy Lenahan
Licensing Administrator
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, KS 66603-3068

and the original filed with the office of the Acting Executive Director.



Cathy Brown
Executive Assistant