

FILED

JUN 19 2000

KANSAS STATE BOARD OF HEALING ARTS

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

In the Matter of)
DAVID M. STUART, R.T.)
)
_____)

Case NO. 00-HA-43

PROPOSED DEFAULT ORDER

NOW ON THIS Third Day of June, 2000, comes before the Board of Healing Arts the application of David M. Stuart, R.T. (Applicant) for licensure as a respiratory therapist. Applicant does not appear. Kelli J. Benintendi, Associate Counsel, appears in opposition to the application and has filed a written response to the application alleging grounds upon which the application may be denied.

Applicant is held in default based upon his failure to appear. Because there are alleged facts in the agency record that constitute grounds for denying the application, the Board finds that the public interest is best served by making appropriate findings of fact, conclusions of law and order.

WHEREFORE, the Board finds, concludes and orders as follows:

1. Applicant practiced as a respiratory therapist in the State of Texas prior to submitting his application for licensure in Kansas.
2. On October 6, 1998, Applicant was terminated from his position as a respiratory therapist at Wadley Regional Medical Center in Texarkana, Texas. [Confidential]
[Confidential]
3. Applicant surrendered his Texas Respiratory Care Practitioner Certificate to the Texas Department of Health on January 7, 1999. The Texas agency accepted the surrender of the

certificate, considering the surrender as a disciplinary action.

4. As provided at K.S.A. 1999 Supp. 65-5510, the Board may refuse to grant an application for licensure as a respiratory therapist upon a finding of unprofessional conduct, as defined by rules and regulations of the Board. The Board has defined unprofessional conduct at K.A.R. 100-55-5. Subsection (i) of that regulation states that unprofessional conduct includes being disciplined by a medical care facility for acts which would constitute grounds for discipline under Kansas law, and subsection (j) includes surrendering a license during disciplinary proceedings involving such acts. Subsection (d) [Confidential]

[Confidential]

5. The Board finds and concludes that Applicant was disciplined by the hospital and by the Texas board for conduct that might result in disciplinary action under the Kansas respiratory therapy practice act, and those disciplinary actions constitute grounds to deny the application.

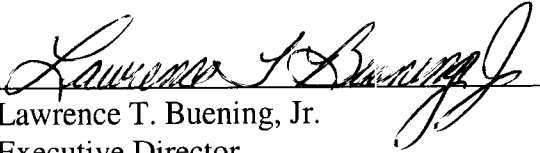
IT IS, THEREFORE, ORDERED that the application of David Stuart, R.T. for licensure as a respiratory therapist is denied.

PLEASE TAKE NOTICE that this is a Proposed Default Order. Within 7 days after service of a proposed default order, a party may file a written motion requesting that the proposed default order be vacated. A copy of any request to vacate shall be served upon the agency by sending a copy to Lawrence T. Buening, Jr. , Executive Director, at 235 S. Topeka Blvd., Topeka, Kansas 66603. If no request is received, the proposed default order shall become effective as a final order of the

Board upon expiration of the time within which a request may be made and without further proceedings.

DATED THIS 19th day of June, 2000.

STATE BOARD OF HEALING ARTS


Lawrence T. Buening, Jr.
Executive Director

Certificate of Service

I certify that a true copy of the foregoing order was served this 7th day of ~~April~~ ^{AUGUST}, 2000 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

David Stuart
2815 Terrace Place, #7
Great Bend, Kansas 67846

and a copy was hand-delivered to the office of:

Kelli J. Benintendi
235 S. Topeka Blvd.
Topeka, Kansas 66603

