

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

FILED

SEP 21 1995

KANSAS STATE BOARD OF
HEALING ARTS

In the Matter of)
the Application for Registration)
in Respiratory Therapy by)
) Case No. 95-00129
KIMBERLY J. CALLISON, f/k/a)
KIMBERLY J. SHAW)
_____)

INITIAL ORDER

NOW, on this 21st day of the September, 1995, the above entitled matter comes on for final determination of the Petition in Opposition to Application for Registration of Kimberly J. Callison ("Applicant") to practice respiratory therapy in the State of Kansas.

The Kansas State Board of Healing Arts ("Board") appears by its Associate Counsel, Lori R. Miskel, and its Disciplinary Counsel, Kevin LaChance. Applicant did not appear, was not represented either in person or by counsel, nor could she be contacted at her last known telephone number.

After reviewing the file, receiving the proffered evidence, hearing statement of counsel and being duly advised in the premises, the specific findings of fact and conclusions of law for decision are as follows:

FINDINGS OF FACT

1. Kimberly J. Callison was formerly known as Kimberly J. Shaw.
2. Ms. Callison is not, and never has been, a registered respiratory therapist in the State of Kansas.
3. Ms. Callison completed the certified respiratory therapy technician program at the

Heart of the Ozarks Technical Community College, Springfield, MO., on August 6, 1987.

4. Ms. Callison was certified by the National Board for Respiratory Care on November 14, 1987.

5. Richard A. Uhlig, D.O. presided as Secretary for the Board from August 1, 1984 until February 5, 1988. He was Acting Executive Director for the Board from January 1, 1988 through July 10, 1988. The position of Secretary for the Board was abolished by statute effective January 1, 1988.

6. On March 27, 1993, Ms. Callison, under the name Kimberly J. Shaw, stated on a job application for William Newton Memorial Hospital (Winfield, Kansas) that she had applied for Kansas license and temporary permit.

7. Ms. Callison presented a registration certificate with Kansas registration number 408 when she interviewed for the position with William Newton Memorial Hospital.

8. Registration certificate number 408 is issued to another respiratory therapist, Janet L. Friesen, and was issued on August 15, 1987.

9. Registration certificate number 408 was altered to indicate Kimberly Jane Shaw, R.C.P., as the registrant and the date of registration as July, 1993.

10. On June 29, 1993, under the name Kimberly J. Shaw, Ms. Callison was hired as a Respiratory Care Practitioner by Arkansas City Memorial Hospital, Arkansas City, Kansas.

11. During the course of her employment with Arkansas City Memorial Hospital, Ms. Callison signed her name to hospital charts followed by the letters "C.R.T." representing herself as a certified respiratory therapist.

12. Ms. Callison presented to the Director of the Respiratory Care Department at Arkansas City Memorial Hospital a registration certificate with Kansas registration number 185, which appeared to be an alteration of registration number 105.

13. Registration certificate number 105 is issued to another respiratory therapist, Debra Jarboe, and was issued on August 15, 1987.

14. Registration certificate number 185 is issued to another respiratory therapist, Luanne Schmitt, and was issued on August 15, 1987.

15. Registration certificate number 105 was visibly altered to indicate Kimberly Jane Shaw R.C.P., as the registrant with registration number 185 and the date of registration as August, 1993.

16. Ms. Callison's employment with Arkansas City Memorial Hospital was terminated on August 16, 1993, for falsification of records.

17. On September 1, 1993, Arkansas City Memorial Hospital submitted a Report of Adverse Findings against Ms. Callison for falsification of records.

18. Ms. Callison's Application for Registration in Respiratory Therapy was received by the Board on April 5, 1995.

19. On or about April 18, 1995, the check with which Ms. Callison paid the application and temporary permits fees was returned unpaid and stamped, "Account Closed." The account had been closed in October, 1994.

20. On or about August 3, 1995, Petitioner served upon Applicant by certified mail a copy of a Petition in Opposition to Application for Registration. The petition was sent to Applicant's last known address at 622 N. 4th, Arkansas City, Kansas 67005. A return receipt for certified mail was

received on August 8, 1995, signed by Kimberly Callison.

21. By Order dated August 11, 1995, Petitioner appointed Jeanne Bertelson of Topeka, Kansas, as presiding officer to conduct proceedings based on the petition served upon applicant.

22. On August 17, 1995, the presiding officer served upon Petitioner and Applicant a copy of the Notice of Prehearing Conference and a Prehearing Conference Questionnaire by first class mail in accordance with K.S.A. 77-531. The prehearing conference was scheduled for Thursday, September 7, 1995. The conference was to be conducted by telephone; the telephone call was to originate from the offices of the Board of Healing Arts.

23. Applicant's telephone number, as provided by Applicant on her Application for Registration, and indicated in Board records as (316) 442-9239.

24. On September 1, 1995, Associate Counsel for the Board, Lori Miskel, attempted to verify Applicant's phone number by dialing the number indicated in Board records. A recorded message was received informing the caller that the number dialed had been changed and at the customer's request, the new number is nonpublished and not available.

25. On September 7, 1995, during the Pre-hearing Conference, Lori Miskel again attempted to reach Applicant by phone in the presence of the presiding officer. The same recorded message was received.

26. On September 7, 1995, the Board moved that Applicant be held in default in accordance with the provisions of K.S.A. 1994 Supp. 77-520, and that written notice of a Proposed Default Order be served upon Applicant, which motion was sustained. The motion was served on Applicant that same date.

27. On September 8, 1995, Applicant telephoned the Board of Healing Arts after receipt of the Motion for Default Order. At that time, Applicant was informed that the Notice of Proposed Default Order would be served on her and of her opportunity to request that the Default Order be denied. Applicant was further informed that this matter was continued until September 21, 1995 at 9:00 a.m. Applicant agreed to participate in the September 21 hearing by telephone, and furnished her current telephone number.

27. The Notice of Proposed Default Order was mailed September 12, 1995 to Applicant. No response by Applicant was received within the prescribed period.

28. On September 21, 1995, the Presiding Officer conducted further proceedings during which time a call was placed to Applicant. Applicant did not answer, but rather the call was answered by an answering machine. Applicant failed to appear in person or through counsel and has failed to participate in this matter.

CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-2838, these proceedings are governed by the Kansas Administrative Procedure Act, K.S.A. 77-501 et seq.

2. The Board has provided full and proper notice to Applicant of all proceedings in this matter in accordance with the Kansas Administrative Procedure Act.

3. Applicant is in default in these proceedings and under the provisions of K.S.A. 77-520 any further proceedings necessary to complete the adjudication and determine all issues may be conducted without the participation of Applicant.

4. Based upon the totality of Applicant's failure to participate in this matter and the evidence proffered by the Board, Applicant's Application for Registration in Respiratory Therapy is hereby denied.

5. This is an Initial Order issued by the Presiding Officer pursuant to K.S.A. 77-526(b) and shall become a Final Order unless reviewed in accordance with K.S.A. 77-527. K.S.A. 77-527(a) provides that any party to an administrative hearing may request review of an Initial Order by an agency head as that term is defined in K.S.A. 77-502(b). A Petition for Review of Initial Order must be filed with the agency head within 15 days after service of this Initial Order. This Initial Order shall become effective as a Final Order 30 days after service of this Initial Order if no party has filed a Petition for Review, the agency head has not given written notice of its intention to exercise review, and a final determination by the agency head is not otherwise required by law. Additionally, K.S.A. 77-612 provides that judicial review of a final administrative action may be obtained only after a party seeking judicial review has exhausted all available administrative remedies.

IT IS SO ORDERED.

DATED this 21st day of September, 1995.


Jeanne Bertelson, Presiding Officer
5016 SW Brentwood Ct.
Topeka, Kansas 66606
(913)357-5010

CERTIFICATE OF SERVICE

22nd I certify that a true and correct copy of the foregoing **INITIAL ORDER** was served this day of September, 1995, by depositing the same in the United States mail, first-class postage prepaid, to the following:

Kimberly J. Callison
622 N. 4th Street
Arkansas City, Kansas 67005

and a copy was hand delivered to:

Lori R. Miskel
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068

and the original was hand delivered to:

Lawrence T. Buening
Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068



Jeanne Bertelson