

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
CIVIL DIVISION**

AMY ROSE SIPLE)	
)	
Petitioner,)	
v.)	Case No.
)	
KANSAS STATE BOARD OF NURSING)	(pursuant to §§ 65-1121a,
)	77-601 <i>et seq.</i>)
)	
Respondent.)	

PETITION FOR JUDICIAL REVIEW OF AGENCY ACTION

(pursuant to K.S.A. §§ 65-1121a, 77-601 *et seq.*)

COMES NOW Petitioner, Amy Rose Siple (“Siple” or “Petitioner” or “Respondent”), by and through Joshua A. Ney, counsel of record, and hereby requests, pursuant to K.S.A. §§ 65-1121a, 77-601 *et seq.*, the Court set aside and enjoin the effectiveness of the Order of Kansas State Board of Nursing dated October 14, 2025 (“Final Order”).

Ms. Siple petitions this court for review and vacation of the Final Order, and all other preliminary orders, and dismissal of this matter because: 1) the Final Order is based on a determination of fact, made or implied by the Hearing Officer, that is not supported to the appropriate standard of proof by evidence that is substantial when viewed in light of the record as a whole, and/or engaged in unlawful procedure, by admitting and considering evidence with insufficient foundation, substance, and competence; 2) the Final Order erroneously applied the law relating to the regulation of nursing; 3) the Final Order is otherwise unreasonable because it determines that pure speech by Petitioner while Petitioner’s nursing license was inadvertently lapsed is “unprofessional conduct”; 4) the Final Order’s determinations and agency action, or the statute or rule and regulation on which the agency action is based, are unconstitutional on their face or as applied because they are in violation of the Free Speech clauses of the First

Amendment to the United States Constitution and Bill of Rights of the Kansas Constitution. *See* K.S.A. 77-621(c)(1), (4), (5), (7), (8); U.S. Const. amend. I, as incorporated by U.S. Const. amend. XIV; Kan. Const. Bill of Rts. § 11.

Petitioner also requests leave to submit additional briefing as ordered or permitted by the Court to address all legal and constitutional issues that were raised by Petitioner but not addressed by Hearing Officer in Initial Order or the Board’s Final Order. Petitioner preserves all evidentiary objections and legal issues raised previously for judicial review.

STATEMENT OF FACTS

On October 14, 2025, the Kansas State Board of Nursing, by and through its designee, Andrea Watson, Board Member and Agency Head, issued a Final Order attaching the Initial Order of the Hearing Officer and incorporating such Initial Order by reference as a Final Order of the Board. The Initial Order was issued on September 10, 2025, after an August 5, 2025, evidentiary hearing before the Office of Administrative Hearings.

In the Initial Order, as incorporated as the Final Order by the Board, the Hearing Officer found that Petitioner engaged in “unprofessional conduct” under K.S.A. 65-1120 by participating in speech-related activities amounting to the practice of nursing while her license was lapsed between June 1, 2024, and October 31, 2024. Specifically, the Hearing Officer relied on Exhibit D, admitted into evidence over Petitioner’s objection, to find that Petitioner made speeches during the lapsed period that “correspond to an APRN level of knowledge because they encompass diagnostics, evaluations, care and treatments . . .”. *See Initial Order* at p. 2, ¶ 4 (OAH, Sept. 10, 2025). No testimony was received regarding the content, context or audience of these purported speeches. Rather, only the titles and dates of purported speeches, as listed on Exhibit D, were discussed in testimony.

The Hearing Officer admitted two exhibits at hearing: Exhibit B (Petitioner’s license application dated October 30, 2024, admitted without objection) and Exhibit D (purported screen shot of Petitioner’s website, admitted over Petitioner’s objection for lack of foundation). During the hearing, Hearing Officer also received, over objection by Petitioner for hearsay and lack of foundation, the testimony of Special Investigator Ruth Humbert (hereinafter “SI Humbert”) regarding purported conversations between a previous Board Special Investigator Evan Faulkner and Petitioner. While the Hearing Officer found that the Board’s sole witness, SI Humbert, “testified recalling statements SI Faulkner documented where Siple admitted/explained that she was seeing clients under her license, pro bono, when her license had lapsed,” the hearing officer did not make any findings of a violation related to this allegation. *See Initial Order* at p. 2, 4 (findings of violation in Analysis section only discuss factual circumstances related to website and speeches).¹ The Final Order did not make specific findings regarding this allegation as it relates to the practice of nursing. *See Final Order* at p. 3, ¶ 5(a) (Kan. St. Bd. Nursing, October 14, 2025).

The Hearing Officer’s sole findings of violation were:

3. . . . [Petitioner] practiced nursing by utilizing specialized knowledge she derived from biological, physical, and behavioral sciences to counsel and teach of the processes related to dementia. On her website, Siple used the title Nurse Practitioner. This indicates that she was an advanced practice registered nurse, duly licensed by the Board.”

4. Between June 1, 2024, through October 31, 2024, Siple was not duly licensed by the Board. Nevertheless, Siple held herself out as a nurse practitioner and made presentations, counseled, and taught changes in the normal health processes related to dementia. These activities amount to the practice of nursing and are, by definition, unprofessional behaviors.

¹ The Initial Order did not find a violation related to purported statements by Petitioner that that she “was seeing clients under her license, pro bono, when her license had lapsed.” *See Initial Order* at p. 2, 4. This is understandable, given nothing in the record or the evidence submitted by the Board at hearing established that during the lapse period Petitioner was employed in patient care or provided care that was not otherwise excluded from the definition of “nursing” under K.S.A. 65-1124(a) (“gratuitous nursing exception”).

See id. at p. 4.

At hearing, Exhibit D (screenshot of a purported website) was admitted into evidence over Petitioner’s objection for lack of foundation. Petitioner’s objection stated that because the Board’s sole witness had not personally reviewed the Petitioner’s website or participated in the investigation of Petitioner’s website, Exhibit D lacked foundation to be admitted. The Initial Order made specific findings related to the nature of Petitioner’s activities during the lapsed period and wholly relied on Exhibit D when making findings that Siple engaged in the practice of nursing during this period. The Board’s sole witness did not have any independent knowledge of Exhibit D and had conducted no investigation regarding the purported website—indeed, SI Humbert testified at hearing that she had never personally visited the purported website.

STATEMENT OF ISSUES

Issue I. The Final Order is based on a determination of fact, made or implied by the Hearing Officer, that is not supported to the appropriate standard of proof by evidence that is substantial when viewed in light of the record as a whole, and/or engaged in unlawful procedure, by admitting and considering evidence with insufficient foundation, substance, and competence.

Issue II. The Final Order erroneously interpreted and applied the law relating to the regulation of nursing regarding the purported use of the term “nurse practitioner.”

Issue III. The Final Order is otherwise unreasonable because it determines that pure speech by Petitioner while Petitioner’s nursing license was inadvertently lapsed is “unprofessional conduct.”

Issue IV. The Final Order’s determinations and agency action, or the statute or rule and regulation on which the agency action is based, are unconstitutional on their face or as applied because they are in violation of the Free Speech clauses of the First Amendment to the United States Constitution, as incorporated by the Fourteenth Amendment to the United States Constitution, and Bill of Rights of the Kansas Constitution.

ARGUMENT

Issue 1. The Final Order is based on a determination of fact, made or implied by the Hearing Officer, that is not supported to the appropriate standard of proof by evidence that is substantial when viewed in light of the record as a whole, and/or engaged in unlawful procedure, by admitting and considering evidence with insufficient foundation, substance, and competence.

The Hearing Officer stated in the Initial Order:

The only witness was Special Investigator Ruth Humbert (SI Humbert), the Board's nurse investigator. The Board's investigation in this matter was conducted by Senior Special Investigator Evan Faulkner, who is no longer employed with the Board. SI Humbert reviewed the investigation documents collected by Faulkner. The investigation documents are kept with the Board and generated by a nurse investigator during the ordinary course of business.

See id. at 1.

The Hearing Officer erred by admitting Exhibit D without foundation. *See* 25BN0006 KSBN Hearing Recording at 12:52 (August 5, 2025). After admitting Exhibit D without sufficient foundation, the Hearing Officer made specific factual findings based on that evidence admitted in error. Those findings included that Petitioner: 1) “practiced nursing by utilizing specialized knowledge she derived from biological, physical, and behavioral sciences to *counsel and teach of the processes related to dementia*”; 2) “[o]n her website, Siple used the title Nurse Practitioner; and 3) “Siple *held herself out as a nurse practitioner and made presentations, counseled, and taught* changes in the normal health processes related to dementia.” *See id.* at p. 4 (emphasis added). Each of these findings are dependent upon Exhibit D, especially since SI Humbert testified that she did not personally observe the purported website during the lapsed period. *See* 25BN0006 KSBN Hearing Recording at 12:35 (August 5, 2025). At no time during her testimony did SI Humbert (Board's sole witness) testify or establish foundation for the authenticity of Exhibit D prior to or after it being admitted into evidence. She simply described

what the document appeared to be with no personal knowledge of the document or website. *See id.* at 11:49. Foundation was not established as a business record, and since it was not a website created or maintained by the Board of Nursing, *could not* be established as a business record. *See* K.S.A. 60-460(m).

What is more, the admission of statements and documents purported to have been collected by a former investigator deprived Petitioner of her right to cross-examine the person purporting to establish the reliability of the statements and documents at issue. *See cf. Manzano v. Kansas Dept. of Revenue*, 324 P.3d 321, Syl. ¶ 3 (Kan. App. 2014) (“When the administrative hearing is so circumscribed by the hearing officer that it no longer provides a meaningful opportunity to present evidence, *to cross-examine law-enforcement officers*, to explore potential issues, and to list the issues a de novo district court trial would consider, the driver’s due-process rights have been violated.” (emphasis added)).

The Board, through its legal counsel, had the evidentiary burden of proof at hearing. Petitioner was not required to provide foundation for purported evidence collected by former Special Investigator Evan Faulkner, and she did not (she did not testify). The only witness in the hearing was SI Humbert, produced by the Board’s legal counsel. The Board’s entire case hinged upon Exhibit D, and the Board produced no witness that had ever personally observed the purported website in real time—whether during the license lapse period or after. The Board’s attorney simply handed SI Humbert a marked exhibit that purported to be a website owned and operated by Petitioner. SI Humbert testified that the first time she saw the documents proffered at hearing was when they were provided to her by the Board’s attorney. *See* 25BN0006 KSBN Hearing Recording at 9:48 (August 5, 2025)

Petitioner’s choice not to testify in her own defense cannot be used as an inference of

guilt or liability. *See* K.S.A. 60-439. The Board had the burden to prove its case using substantial competent evidence. It did not do so. And while Exhibit D was erroneously admitted without foundation for its authenticity and should be disregarded at this stage of review, it is intrinsically neither “substantial” nor “competent.” *See Frick Farm Props., L.P. v. State, Dep’t of Agric., Div. of Water Res.*, 289 Kan. 690, 709, 216 P.3d 170, 183 (2009) (“Substantial competent evidence possesses both relevance and substance and provides a substantial basis of fact from which the issues can be reasonably determined.”); *Doe v. Kansas State University*, 61 Kan.App.2d 128, 135, 499 P.3d 1136 (2021) (citation omitted) (“Substantial competent evidence refers to legal and relevant evidence that a reasonable person could accept as being adequate to support a conclusion.”).

Exhibit D includes purported dates, titles, and locations of speeches. Nothing in the testimony or evidence (or investigative file) included any purported content of speeches or use of “specialized knowledge [Petitioner] derived from biological, physical, and behavioral sciences to counsel and teach of the processes related to dementia.” *See Initial Order* at p. 4; *see also* K.S.A. 65-1113(d). The Hearing Officer relied on the titles of the speeches alone to determine that such purported speech constituted the “practice of nursing.” While Petitioner’s arguments below constitute the core legal issues at play, whereas the admission of evidence over objection could be construed as simply a “gotcha” technicality, the anemic nature of the Board’s case in chief—producing one witness with no personal knowledge of or connection to the original investigation—insults the very definition of Petitioner’s right to due process via evidentiary hearing. *See Kempke v. Kansas Dept. of Revenue*, 133 P.3d 104, 109 (Kan. 2006), as corrected (May 18, 2006); *Manzano v. Kansas Dept. of Revenue*, 324 P.3d 321, 327 (Kan. App. 2014).

Moreover, as will be discussed below regarding the Free Speech implications of the

Hearing Officer's findings, the Board's sole witness also testified that *the very same speeches*, if properly cited or styled, could be given by an attorney or other non-nurse. See 25BN0006 KSBN Hearing Recording at 12:52 (August 5, 2025). A lengthy exchange during SI Humbert's testimony is instructive:

Attorney: Do you know if any attempt . . . was made in the investigation to track down what was said during the speeches. . . . I'm asking about the content of the speeches, and not just the titles.

Humbert: No, not that I'm aware.

Attorney: So the only thing the Board is aware of are titles and dates.

Humbert: That's correct.

Attorney: Based on your experience, not only as a nurse, but also in your current role for the last nine years, have you attended nursing continuing education?

Humbert: Yes, I'm required to get 30 hours every two years.

Attorney: And based on your training and experience, are you aware of some continuing education that's provided by non-nurses?

Humbert: Yes.

Attorney: Could that be lay persons?

Humbert: Yes.

Attorney: Could that be attorneys?

Humbert: Yes.

Attorney: Based on your training experience, if I represent to you that I don't hold a nursing license, but I do hold an attorney license, could I give the "Drive to Deprescribe", a talk on that without violating the law.

Humbert: I probably would not attend, because I would have considered considerable concerns about that happening, that it would be accurate and true information.

Attorney: Or another example would be a Securities Commissioner . . . if we had an issue that we're pursuing with elder abuse or elder care or treating...taking

care of elders with dementia, could financial regulators with experience in that field give continuing education?

Humbert: It would have to deal with financial in dealing with the elder care, yes. For me it would be dependent upon and to the courses that I have taken, it'd be dependent on how it was labeled and what the information was.

Attorney: Okay.

Humbert: If I use statistics from the medical field would that be--

Attorney: Sure.

Attorney: It wouldn't be illegal?

Humbert: I don't think so.

. . . [procedural discussion with Hearing Officer omitted]

Attorney: I could quote from medical data as an attorney to give these types of speeches?

Humbert: I believe so, yeah, okay.

Attorney: Would you agree with me this all depends on content?

Humbert: Content, and the title names when you're talking about medications and care, one of the things in the Nurse Practice Act talks about APRNs, that their scope of training. I can't quote you the statute. I don't have those memorized, but there's a place in the Nurse Practice Act that talks about the training for professional nurses, and one of it is education for those that are going through life changes, and that requires you to be a licensed APRN, a professional nurse, whether that's an RN or APRN.

Attorney: If I cited to professional studies by other doctors or medical sources as an attorney, are there some things that I can say because I don't have a scope of practice that this Mrs. Siple cannot say because she does?

Humbert: I guess it would be dependent on what how you're labeling the course, and what if it's going to pertain to helping somebody with health care is going through a life changing activity.

Attorney: So it's the nature of the speaker that determines what can be said?

Humbert: Going to be determining what type of course you're going to give, that it's going to deal with changing health care in with the patient. If you're giving

diagnosis or assessment or care or treatment of the patient.

Attorney: Do you have any personal observation of this investigative file that would lead you to believe that in any of these speeches, Mrs. Siple provided care to a patient?

Humbert: I would imagine that what she's done with these courses, if it, this is my opinion, this is not anything else, but my opinion...

Attorney: I'm sorry to stop you, but I'm not asking you to speculate. I'm asking, Do you have any actual knowledge of the whether these speeches provided care to patients?

Humbert: No, I do not.

Attorney: What about diagnoses?

Humbert: No, I do not.

See 25BN0006 KSBN Hearing Recording at 18:27 (August 5, 2025).

This exchange is quoted at length to demonstrate the paucity of the Board's sole witness's knowledge regarding the investigation. SI Humbert testified that she wasn't aware of any attempt by the prior Board investigator to track down the content of the speeches given. She had no actual knowledge of whether the titles of these purported speeches "provided care" or "diagnoses" to patients. In other words, Petitioner is now being found to have "practiced nursing" on the sole basis of titles of speeches listed on a purported website—a website the Board's sole witness never viewed.

Nothing in evidence established that Siple was engaged in "the care, diagnosis, treatment, counsel and health teaching *of persons who are experiencing changes in the normal health processes or who require assistance in the maintenance of health or the prevention or management of illness, injury or infirmity.*" *See* K.S.A. 65-1113(d) (definition of the practice of professional nursing) (emphasis added). The Board presented no evidence regarding the audience of the speeches, the context of the speeches, or the specific content of the speeches.

The Hearing Officer’s determinations of fact were completely dependent on Exhibit D and SI Humbert’s testimony. Those determinations are simply not supported *to the appropriate standard of proof* by evidence that is substantial when viewed in light of the record as a whole. The Board had every investigatory tool available to it between November 2024 (commencement of investigation) and August 2025 (hearing date), including subpoena power, but elected to produce only a single witness who had never even viewed a website which was the *sole* evidence of Petitioner’s alleged “nursing” acts during the lapsed period. Evidentiary standards may be relaxed in an administrative hearing, but they are not non-existent. *See* K.S.A. 77-524. The Board simply did not prove its case with substantial competent evidence, even to a “preponderance” standard, without resorting to speculation about what Petitioner might or might not have said publicly during the lapsed period.

Issue II. The Final Order erroneously interpreted and applied the law relating to the regulation of nursing regarding the purported use of the term “nurse practitioner.”

The Initial Order, as adopted by reference in the Final Order, made a separate finding that Petitioner’s purported use of “nurse practitioner” on a website during the lapsed period amounted to a violation. *See* Initial Order at p. 3, ¶ 7. “On her website, Siple used the title Nurse Practitioner. This indicates that she was an advanced practice registered nurse, duly licensed by the Board.” *See id.* p. 4, ¶ 3. However, the Kansas Nurse Practice Act does not regulate the term “nurse practitioner,” despite the conclusory but legally unsupported finding of the Hearing Officer finding these terms “synonymous.” *See Final Order* at p. 3, ¶ 5(b) (Kan. St. Bd. Nursing, Oct. 14, 2025).² Nowhere in the Act is the term “nurse practitioner” used to describe currently

²“During the time her license was lapsed, Respondent held herself out as a licensed Nurse Practitioner, which is synonymous with an APRN, using a device (her website).” Initial Order at p. 3, ¶ 5(b) (OAH, Sept. 10, 2025). This statement is unsupported in law and is misstates evidence in the record. Nothing in the evidentiary record established that Siple held herself out as “licensed” on her website.

regulated individuals. K.S.A. 65-1130 is the sole place “advanced registered nurse practitioner” is used, and it is used as a legacy term to describe persons regulated *prior* to the adoption of current statutory regulations for “advanced practice registered nurse.” *See* K.S.A. 65-1130(f) (“A person registered to practice as an advanced registered nurse practitioner in the state of Kansas immediately prior to the effective date of this act shall be deemed to be licensed to practice as an advanced practice registered nurse under this act . . .”).

The Initial Order found, based solely on Exhibit D, that Petitioner used the term “nurse practitioner” publicly during the lapsed period—not “APRN,” not “registered nurse,” not “advance practice registered nurse.” Without Exhibit D, there is no evidence regarding Petitioner’s use of the term “nurse practitioner”, since SI Humbert had no independent knowledge of the Board’s investigation and had never spoken to Petitioner. Because Exhibit D was admitted erroneously without foundation, the Initial Order’s determination that “Siple held herself out as a nurse practitioner . . . amount[ing] to the practice of nursing” is simply not supported to the appropriate standard of proof by evidence that is substantial when viewed in light of the record as a whole. *See* Initial Order p. 4, ¶ 4; K.S.A. 77-621(c)(7).

Moreover, the Hearing Officer’s determination erroneously interprets and applies K.S.A. 65-1114(b)(1) and (2) to include the regulation of the term “nurse practitioner.” Such a term is not regulated in the Nurse Practice Act and a determination that the use of the term “nurse practitioner” is included in the speech-restricting regulation of the term “advance practice registered nurse” exceeds the clear legislative intent of K.S.A. 65-1114(b) (“It shall be unlawful for any person: . . . to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a *registered professional nurse*.”). To the extent K.A.R. 60-11-104 expands the legislatively regulated “terms of art” to include colloquial phrases like “nurse practitioner,”

the agency's expansion of speech regulation violates both legislative intent of the statute and constitutional limitations on the regulation of pure speech as discussed below.

Issue III. The Final Order is otherwise unreasonable because it determines that pure speech by Petitioner while Petitioner's nursing license was inadvertently lapsed is "unprofessional conduct."

The Hearing Officer denied Petitioner's Motion to Dismiss that had been based on *Kansas St Bd of Nursing v. Burkam*, 216 Kan. 187 (1975). Petitioner's legal arguments in that motion are incorporated herein for preservation in agency and judicial review and will not be repeated here. However, K.S.A. 77-621(c)(8) provides relief from agency action on agency or judicial review if the Final Order is "otherwise unreasonable, arbitrary or capricious." While the Hearing Officer's denial of the Motion to Dismiss was based on an interpretation determining *Burkam* is no longer applicable (due to a change in statute), the spirit of *Burkam*'s balancing of the equities still exists in the statutory prohibition against "unreasonable, arbitrary, or capricious" agency actions. *Burkam* states:

If the legislature had intended that the failure to perform the clerical function of renewing a license should constitute unprofessional conduct it could have easily structured the nursing act to precisely reflect this intent. . . . "Unprofessional conduct' is conduct which violates those standards of professional behavior which through professional experience have become established, by the consensus of the expert opinion of the members, as reasonably necessary for the protection of the public interest." . . . The trial court, as a matter of law, based upon the undisputed facts and within the context of the nursing act determined that the appellee's failure to renew her license was something less than unprofessional conduct, i. e., merely negligence in a clerical matter which was unrelated to the practice of nursing in her professional capacity. The judgment is affirmed.

See Burkam, 216 Kan. at 192-194.

Since *Burkam*, the legislature has determined that "unprofessional conduct" by licensed nurses shall be "defined by rules and regulations of the board." *See* K.S.A. 65-1120(a)(7). K.A.R. 60-3-110 establishes twenty-five separate categories of acts which constitute "unprofessional

conduct.” Some of these acts include:

(e) physical abuse, which shall be defined as any act or failure to act performed intentionally or carelessly that causes or is likely to cause harm to a patient. This term may include any of the following:

(f) commission of any act of sexual abuse, sexual misconduct, or sexual exploitation related to the licensee's practice;

(g) verbal abuse, which shall be defined as any word or phrase spoken inappropriately to or in the presence of a patient that results in or might reasonably be expected to result in the patient's unnecessary fear, emotional distress, or mental distress; . . .

(j) violating the confidentiality of information or knowledge concerning any patient;

(m) engaging in conduct related to licensed nursing practice that is likely to deceive, defraud, or harm the public; . . .

(n) diverting drugs, supplies, or property of any patient or agency;

(o) exploitation, which shall be defined as misappropriating a patient's property or taking unfair advantage of a patient's physical or financial resources for the licensee's or another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false pretense, or false representation; . . .

(v) engaging in nursing practice while using a false or assumed name or while impersonating another person licensed by the board;

See K.A.R. 60-3-110. Thrown in at the end of this list of fraudulent, abusive, licentious, or avaricious acts is the act of “practicing [nursing] . . . while the license has lapsed.” Petitioner suggests this wholesale outsourcing of the term “unprofessional conduct” by the legislature violates Kansas courts’ non-delegation doctrine because K.S.A. 65-1120 and the Nurse Practice Act, read in its entirety, do not contain sufficient guidance as to what scope of acts are to be included in the statutory term “unprofessional conduct.” *See Blue Cross & Blue Shield of Kansas, Inc. v. Praeger*, 276 Kan. 232, 279–80, 75 P.3d 226, 256 (2003); Kan. Const. art. II, § 1; *see also State, ex rel. Schneider v. Bennett*, 219 Kan. 285 (1976) (Court striking down statute as

unlawful delegation of legislative authority to administrative agency); *State, ex rel. Fatzer v. Urban Renewal Agency of Kansas City*, 179 Kan. 435, 440 (1956) (“The legislature may enact general provisions but leave to those who are to act certain discretion in ‘filling in the details,’ so to speak, *provided, of course, it fixes reasonable and definite standards which govern the exercise of such authority.*”) (emphasis added).

But short of an unconstitutional, wholesale delegation by the legislature for the Board to determine that unprofessional conduct means whatever the Board thinks it means, the Final Order’s determinations are still unreasonable. This case has never been about a \$300 fine. Late fees are to be expected when filing late. But the draconian penalties associated with a formal finding of “unprofessional conduct” based on a lapsed license should inform the quality and depth of the Board’s investigation. What is at stake for Petitioner is a nationwide scarlet letter of “unprofessional conduct” being reported to three different public databases, inability to obtain malpractice insurance, or at least exorbitant rates, and rendering an APRN with 32 years of unblemished service in Kansas unemployable—all for “giving speeches” while her license had inadvertently lapsed for a few months.

So within this context, the Board’s case is unreasonably anemic, and the Final Order’s finding of a violation is unreasonably punitive. Correspondingly, the Final Order’s reliance on scant evidence, admitted without sufficient foundation, substance, or competence, is wholly unreasonable, given the draconian consequential professional effects of a finding of “unprofessional conduct.” An evidentiary hearing is not the place to litigate what the Board *should* do, only what it technically *can* do under the statute. However, K.S.A. 77-621 allows judicial review to determine if the enforcement action—as ratified by the Final Order—is *reasonable*. Similarly, prosecutorial discretion in determining which technical lapse violations to

punish and which ones to resolve informally, is a conversation for a different context than a quasi-judicial proceeding. But Kansas law vests the Court with review of whether this draconian result, for the purported acts of giving speeches and listing “nurse practitioner” on a website, is *reasonable*. Petitioner contends it is not.

Issue IV. The Final Order’s determinations and agency action, or the statute or rule and regulation on which the agency action is based, are unconstitutional on their face or as applied because they are in violation of the Free Speech clauses of the First Amendment to the United States Constitution, as incorporated by the Fourteenth Amendment to the United States Constitution, and Bill of Rights of the Kansas Constitution.

Petitioner attempted to raise First Amendment concerns at hearing, but as stated by the Hearing Officer during the hearing and in the Initial Order, “[c]onstitutional issues cannot be raised in an administrative forum and this issue has been raised in case of further review but will not be addressed in the Initial Order.” *See Initial Order* at p. 1, fn. 1 (citing *Katz v. Kansas Dept. of Revenue*, 45 Kan App.2d 877 (2013), citing *Martin v. Kansas Dept. of Revenue*, 258 Kan. 625, 175 P.3d 938 (2008)); *see also Final Order* at p. 3, ¶ 5(d). “Constitutional issues may be raised at the agency level, but they are decided by the courts.” *Martin*, 285 Kan. at 625 Syl. ¶ 5 (2008). However, all constitutional issues involving the unconstitutional nature of the Board’s action in the Final Order are now raised and preserved for further briefing before this court.

The Final Order makes determinations that apply nursing regulation and licensing scheme to pure speech. Each of the acts found in the Final Order and Initial Order to have constituted the “practice of nursing” during the license lapse period include *only* speech—purported speeches by Petitioner “to counsel and teach of the processes related to dementia” and “us[ing] the title Nurse Practitioner [on her website].” *See Initial Order* at p. 4, ¶¶ 3, 4.

Content-based restrictions on speech “target speech based on its communicative content.” *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015). A content-based restriction is “presumptively

unconstitutional and may be justified only if the government proves that [it is] narrowly tailored to serve compelling state interests.” *Id.* Strict scrutiny “reflects the fundamental principle that governments have ‘no power to restrict expression because of its message, its ideas, its subject matter, or its content.’” *Nat’l Inst. of Family & Life Advocates (NIFLA) v. Becerra*, 585 U.S. 755, 766 (2018) (quoting *Police Dep’t of Chicago v. Mosley*, 408 U.S. 92, 95 (1972)). “In the realm of private speech or expression, government regulation may not favor one speaker over another.” *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 828 (1995). Laws targeting certain speakers suffer from the same core “vice of content-based legislation [which] is not that it is always used for invidious, thought-control purposes, but that it lends itself to use for those purposes.” *Reed*, 576 U.S. at 167 (cleaned up); *see also Citizens United v. Fed. Election Comm’n*, 558 U.S. 310, 340 (2010) (speaker-based restrictions are all too often simply a means to control content).

Here, the only evidence admitted at hearing regarding Petitioner’s supposed “acts” was Exhibit D. Exhibit D was wholly relied upon by the Hearing Officer to determine that the acts of giving public presentations about dementia amounted to counseling and teaching while utilizing specialized knowledge, and thus constituted the “practice of nursing.” As discussed at length above, the Board had no evidence *regarding the content* of these purported speeches, or the purported audiences, or whether Petitioner *actually* used “specialized knowledge she derived from biological, physical, and behavioral sciences” when giving these presentations, but assumed the presentations contained the verboten content anyway to punish Petitioner.

By restricting what Petitioner can *say*—and for punishing her for the presumed words she uttered—the regulation is a content-based speech restriction, and the Board must establish that the regulation on its face or as applied is narrowly tailored to serve compelling state interests.

See Reed, 576 U.S. at 163. It cannot do so, especially with these anemic facts. The scope of regulation as applied in this matter stands for the proposition that *no person* who does not possess a valid nursing license can give speeches related to dementia. Otherwise, to make sense of the attempted regulation in this fact pattern, the Board is left to assert the proposition that *some* speakers may give speeches regarding dementia, while others can't. *See* 25BN0006 KSBN Hearing Recording at 18:27 (August 5, 2025), *supra* 8-10 (Board investigator testifying that laypersons, attorneys, or financial regulators could give speeches with same titles without violating nursing regulations, depending on content of speeches).

But under the Final Order's logic, for a person who possesses specialized knowledge through education or training, the scope of that person's First Amendment protected speech is *less* than a person who has no such education or training and makes *the very same speech*. That logic is speaker-based regulation of speech and is unconstitutional if it fails strict scrutiny. "In the realm of private speech or expression, government regulation may not favor one speaker over another." *Rosenberger*, 515 U.S. at 828. The monopolization of speech by restricting use of colloquial terms to certain speakers is unconstitutional, unless narrowly tailored to serve a compelling state interest. The vast swath of potential speech included in the Initial Order's conclusions regarding the "practice of nursing" is unconstitutionally overbroad and speaker-specific. This unconstitutional theory of who may say what and in what contexts was echoed by the Board's sole witness during questioning at hearing. *See* 25BN0006 KSBN Hearing Recording at 18:27 (August 5, 2025) discussed *supra* at 7-9.

Lastly, content-based regulation of the use of the colloquial term "nurse practitioner" (a term not regulated in the Nurse Practice Act) is still subject to strict scrutiny. *See NIFLA*, 585 U.S. at 773 (states cannot "reduce a group's First Amendment rights by simply imposing a

licensing requirement.”). *See also* *Byrum v. Landreth*, 566 F.3d 442, 447 (5th Cir. 2009) (legislature could not “license speech and reduce its constitutional protection by means of the licensing alone.”); *Serafine v. Branaman*, 810 F.3d 354, 361-62 (5th Cir. 2016) (unlicensed person’s use of “psychologist” to describe herself was protected speech where she was “a psychologist by reputation or training,” and state restrictions on the term were content-based and subject to strict scrutiny). And if neither the legislature nor the Board got around to expressly including “nurse practitioner” in the proscribed terms of art that may only be used by certain licensed individuals, the Board’s attempt to expand its content-based speech regulation through enforcement is additionally impermissible. Such an attempt would unconstitutionally expand the scope of the statutory language to include a substantial amount of protected speech. *See City of Wichita v. Griffie*, 318 Kan. 510, 525, 544 P.3d 776, 787 (2024) (discussing unconstitutionally overbroad statute that prohibited a substantial amount of protected activity judged in relation to the law’s plainly legitimate sweep); *see also State v. Bollinger*, 302 Kan. 309, 318, 352 P.3d 1003 (2015) (internal quotations and citations omitted) (the measure of whether a statute is vague is “(1) whether the statute gives fair warning to those potentially subject to it, and (2) whether it adequately guards against arbitrary and unreasonable enforcement. At its heart the test for vagueness is a commonsense determination of fundamental fairness.”); *Matter of A.B.*, 313 Kan. 135, 138, 484 P.3d 226 (2021) (failure of either of these requirements renders a statute impermissibly vague).

The Final Order’s determinations of violations based on the statute or rule and regulation on which the agency action is based is unconstitutional on its face and as applied because both the determinations and the statute and rules in question are in violation of the Free Speech clauses of the First Amendment to the United States Constitution, as incorporated by the

Fourteenth Amendment to the United States Constitution, and Bill of Rights of the Kansas Constitution.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests the Court set aside and enjoin the effectiveness of the Final Order decision of Kansas State Board of Nursing dated October 14, 2025, and such other appropriate relief, whether mandatory, injunctive or declaratory; preliminary or final; temporary or permanent; equitable or legal; render a declaratory judgment or take any other action that is authorized and appropriate; and award necessary ancillary relief to redress the effects of official action wrongfully taken or withheld, including attorney fees or witness fees to the extent expressly authorized by other law.

REQUEST FOR ADDITIONAL BRIEFING AS NEEDED

Petitioner reserves all additional issues and objections raised at hearing or as may be cause for legal invalidity of the Final Order for this and future stages of appeal. Petitioner requests leave to submit additional briefing or memoranda of law to this Court as may be appropriate.

RESPECTFULLY SUBMITTED,

KN LAW GROUP LLC

By: /s/ Joshua A. Ney
Joshua A. Ney, #24077
900 S. Kansas Ave., Ste. 402
Topeka, KS 66621
Phone: (785) 414-9065
josh@knlawgroup.com

ATTORNEY FOR PETITIONER SIPLE

Certificate of Service

This is to certify that on this 12th day of November, 2025, the original of the above and foregoing PETITION FOR JUDICIAL REVIEW was filed by eFlex and hand-delivered and sent by first-class and certified mail to:

Carol Moreland
Executive Administrator
Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612
Telephone: 785-296-4325

with a true and correct copy submitted via electronic mail to:

Sydney M. Winslow
Assistant Attorney General
Disciplinary Counsel for the Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612
Telephone: 785-296-4325
sydney.winslow@ks.gov

/s/ Joshua A. Ney
Joshua A. Ney, #24077

EXHIBIT A

KANSAS STATE BOARD OF NURSING

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

IN THE MATTER OF)

Amy Rose Siple)

License No. 13-66699-052, 53-44906-052)

KSBN Case No. 2024-725-0

OAH Case No. 25BN0006 KSBN

ORDER

The above-referenced matter comes before the Kansas State Board of Nursing ("Board") for consideration of the Petition for Review of an Initial Order filed by Amy Rose Siple, ("Respondent") by and through her counsel of record, Joshua A. Ney. The Board has delegated to Board member Andrea Watson its authority as Agency Head under K.S.A. 77-527 regarding review of an initial order.

After considering Respondent's Petition for Review and the Initial Order, the Agency Head denies Respondent's Petition for Review for the reasons set forth below:

FINDINGS OF FACT

1. The State Board of Nursing for the State of Kansas filed a Petition with the Office of Administrative Hearings (OAH) alleging Respondent had violated two provisions of the Kansas Nurse Practice Act (KNPA) K.S.A. 65-1113, *et seq.* Specifically, it was alleged Respondent violated:
 - a. K.S.A. 65-1114(a) which prohibits "any person" "... [t]o practice . . . professional nursing in this state. . . unless such person has been duly licensed under the provisions of this act."
 - b. K.S.A. 65-1120(a)(7) and K.A.R. 60-3-110(w) which states a licensee is "... guilty of unprofessional conduct as defined by rules and regulations of the board," to wit, if the licensee has "practice[d] without a license or while the license is lapsed".
2. A hearing was held on August 5, 2025. In an Initial Order, the Presiding Officer found the Board showed by a preponderance of the evidence that Respondent violated the above provisions of KNPA, including practicing while her license was lapsed. Accordingly, the Summary Order of the Board was affirmed. Respondent was served a copy of the Initial Order by mail on September 10, 2025.

3. On September 25, 2025, Respondent, by and through counsel of record, filed a Petition for Board Review of Initial Order of the Presiding Officer. Respondent's Petition for Review claims the following errors:

- a. The Initial Order is based on a determination of fact, made or implied by the Hearing Officer, that is not supported to the appropriate standard of proof by evidence that is substantial when viewed in light of the record as a whole, and/or engaged in unlawful procedure, by admitting and considering evidence with insufficient foundation, substance, and competence.
- b. The Initial Order's (sic) erroneously applied the law relating to the regulation of nursing.
- c. The Initial Order is otherwise unreasonable because it determines that pure speech by Respondent while Respondent's nursing license was inadvertently lapsed is "unprofessional conduct".
- d. The Initial Order's determinations and agency action, or the statute and rule and regulation on which the agency action is based, are unconstitutional on their face or as applied because they are in violation of the Free Speech clauses of the First Amendment of the United States Constitution and Bill of Rights of the Kansas Constitution.

CONCLUSIONS OF LAW

4. Pursuant to K.S.A. 65-1120(b), proceedings to deny, limit, suspend, or revoke a nursing license are conducted under the Kansas Administrative Procedure Act (KAPA), K.S.A. 77-501 *et seq.* The Board has authorized a presiding officer assigned by the Office of Administrative Hearings to conduct its KAPA proceedings and to issue an initial order. *See* K.S.A. 77-514(a) and K.S.A. 77-526(b). Under the KAPA, a petition for review of an initial order must state the basis for relief. K.S.A. 77-527(c). Whether to grant review of an initial order is discretionary with the agency head. K.S.A. 77-527(a).

5. Respondent's claims of errors in the Initial Order and did not present a factual or legal issue that merits review.

- a. Determinations were made based on information contained on what was purported to be the Respondent's website, screenshots of which were part of the investigation file. The website contained twelve (12) speeches scheduled during the time Respondent's license was lapsed. The record reflects that Special Investigator Humbert had spoken to former Special Investigator Faulkner, who had compiled the data as part of the investigation process. Humbert testified recalling statements of Faulkner documented where Respondent admitted/explained that she was seeing clients *pro bono* during the time her

license was lapsed. "A presiding officer need not be bound by technical rules of evidence, but shall give the parties reasonable opportunity to be heard and to present evidence, and the presiding officer shall act reasonably and without partiality. . . . Evidence need not be excluded solely because of hearsay." K.S.A. 77-524(a).

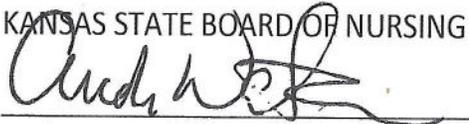
- b. On her website, Respondent held herself out as a "Nurse Practitioner". "A person registered as an advanced registered nurse practitioner in the State of Kansas immediately prior to the effective date of this act shall be deemed to be licensed as an advanced practice registered nurse (APRN) under this act" K.S.A. 65-1130(f). "It shall be unlawful for any person . . . to practice as an advanced practice registered nurse in this state or to use any title, abbreviation, letters, figures, sign or device to indicate that any person is an advanced practice registered nurse, unless such person has been duly issued a license as an advanced practice registered nurse under the Kansas nurse practice act." K.S.A. 65-1114(b). During the time her license was lapsed, Respondent held herself out as a licensed Nurse Practitioner, which is synonymous with an APRN, using a device (her website).
 - c. Respondent's claims of unreasonableness based on *Kansas St. Bd of Nursing v. Burkham*, 216 Kan. 187 (1975) is flawed because it predates **K.A.R. 60-3-110. Unprofessional conduct**, which defines unprofessional conduct, *inter alia*, as "practicing without a license or while the license has lapsed." K.A.R. 60-3-110(w).
 - d. While the Constitutional issues raised by Respondent are acknowledged, Constitutional interpretation issues cannot be raised in an administrative forum. (citing *Katz v. Kansas Department of Revenue*, 45 Kan App.2d 877 (2013) citing *Martin v. Kansas Department of Revenue*, 258 Kan. 625, 175 P.3d 938 (2008)). That issue was not addressed in the Initial Order.
6. Based upon the above findings of fact and conclusions of law, the Board determines that review of the claims raised in Respondent's Petition for Review of the Initial Order should not be exercised.

ORDER

WHEREFORE, it is the decision and order of the Board that review of the Initial Order in the above-referenced case will not be exercised. The Initial Order is hereby attached and incorporated herein by reference as a final order.

IT IS SO ORDERED.

KANSAS STATE BOARD OF NURSING



Andrea Watson, Board Member and
Agency Head

NOTICE OF ADMINISTRATIVE RELIEF

The above Order with the incorporated Initial Order 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 judicial review.

Pursuant to K.S.A. 77-530, if applicable, a party may file a petition for stay of effectiveness of the order 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

If a petition for reconsideration is not filed as stated above, 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 designee who may receive service of a petition for reconsideration, a petition for stay, or a petition for judicial review on behalf of the Board is:

Carol Moreland
Executive Administrator
Kansas State Board of Nursing
Landon State Office Building
900 S.W. Jackson, Ste. #1051
Topeka, Kansas 66612-1230

CERTIFICATE OF SERVICE

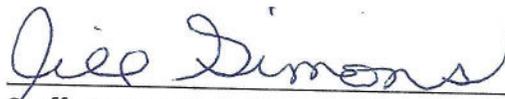
I hereby certify that on this 14th day of October, 2025, a copy of the above Order and Notices as well as the Initial Order were deposited in the United States mail, first-class postage prepaid, and addressed to:

Amy Rose Siple
11412 SW 125th St.
Sedgwick, KS 67135.

KN LAW GROUP LLC
Attn: Joshua A. Ney
900 S. Kansas Ave. Ste. 402
Topeka, KS 66621

I further certify that on the same date a copy of the above Order was hand delivered to:

Sydney M. Winslow
Assistant Attorney General
Disciplinary Counsel for the
Kansas State Board of Nursing
900 SW Jackson, Ste. 1051
Topeka, KS 66612-1365



Staff, Kansas State Board of Nursing

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of
Amy Rose Siple
License No.: 13-66699-052, 53-44906-052

OAH No.: 25BN0006 KSBN
KSBN Case No.: 2024-725-0

INITIAL ORDER

Statement of the Case

This matter comes on for hearing before the Office of Administrative Hearings (OAH) pursuant to K.S.A. 75-37,121, and 77-514. Amy Rose Siple (Siple) appeals the Kansas State Board of Nursing's Summary Order, issued March 24, 2025. Siple appears through her attorney, Joshua A. Ney, and in person. The Kansas State Board of Nursing (Board) appears through Sydney Winslow, Assistant Attorney General.

The Summary Order issued by the Board on March 24, 2025, alleges that Siple committed unprofessional conduct and assessed a civil fine of \$300.00 against Siple.

An administrative hearing was held August 5, 2025, in person, at OAH. The only witness was Special Investigator Ruth Humbert (SI Humbert), the Board's nurse investigator. The Board's investigation in this matter was conducted by Senior Special Investigator Evan Faulkner, who is no longer employed with the Board. SI Humbert reviewed the investigation documents collected by Faulker. The investigation documents are kept with the Board and generated by a nurse investigator during the ordinary course of business.

Siple did not call any witnesses.

Board Exhibits B and D were admitted into the record.

Motion to Dismiss

After the Board presented its case and rested, Siple moved for dismissal of this alleging the Board had not presented evidence to support its Summary Order. In addition, Siple alleged this case encompassed violation of First Amendment rights. It is acknowledged that this First Amendment issue has been raised. However, Constitutional issues cannot be addressed in an administrative forum and this issue has been raised in case of further review but will not be addressed in the Initial Order.¹

¹ *Katz v. Kansas Dept. of Revenue*, 45 Kan App.2d 877 (2013) citing *Martin v. Kansas Dept. of Revenue*, 258 Kan. 625, 175 P.3d 938 (2008).

Along with the oral Motion to Dismiss, Siple filed a Motion to Dismiss on the day of the hearing² and made a similar motion after the Board rested its case. After the hearing, the board filed its response on August 19, 2025.

In her written motion, Siple cites *Kansas St Bd of Nursing v. Burkham*, 216 Kan. 187 (1975), wherein the Kansas Supreme Court ruled that Burkham's practice of nursing after Burkham's nursing license lapsed was not willful and was not related to the practice of nursing. The court vacated the Board's six-month suspension of Burkham's nursing license due to the unauthorized practice of nursing.

The Board distinguished Burkham from this matter by identifying the action by the Board in 1975 was a license suspension and in this matter the Board issued a civil penalty (fine). Further, the Board argues that K.S.A. 65-1120(a) and K.A.R. 60-3-110 (w) do not require the element of intent.

Findings of Fact

1. Siple is licensed by the Board as a professional nurse/registered nurse (RN) and a professional nurse/advance practice registered nurse.
2. Siple failed to renew her license(s) before her license renewal date of May 31, 2024. On October 30, 2024, the Board received a reinstatement application from Siple. The Board approved the reinstatement application and reissued the nursing licenses to Siple on November 5, 2024.
3. Because there was a lapse in Siple's licenses with the Board, an investigation was initiated. The Board learned that Siple had a web site. Siple was identified on the web site as, "Amy Siple Nurse Practitioner [sic] Educator + Speaker." The web site offered tabs which offer; Meet Amy, Upcoming Events, Articles, Speaker Topics, Fee Schedule and one to Book/Contact Amy.
4. The Upcoming Events tab contained information showing that between June 1, 2024, through October 31, 2024, Siple participated in twelve (12) presentations addressing description, disease management, understanding, and pharmacology related to dementia. SI Humbert testified that these topics are topics that correspond to an APRN level of knowledge because they encompass diagnostics, evaluations, care and treatments.
5. SI Humbert testified recalling statements SI Faulkner documented where Siple admitted/explained that she was seeing clients under her license, *pro bono*, when her license had lapsed.

Conclusions of Law

1. The practice of nursing is governed by the Kansas Nurse Practice Act.³

² The motion was handed to the ALJ just before the hearing began. It was put in the paper file and not uploaded until September 9, 2025.

³ K.S.A. 65-1134.

2. It is a violation of law for any person to practice professional nursing, practical nursing, or practice as an advanced practice registered nurse, unless duly licensed to do so.³
3. The practice of professional nursing as performed by a registered professional nurse for compensation or gratuitously, means the process in which substantial specialized knowledge derived from the biological, physical, and behavioral sciences is applied to:
 - the care, diagnosis, treatment, counsel and health teaching of persons who are experiencing changes in the normal health processes or who require assistance in the maintenance of health or the prevention or management of illness, injury or infirmity;
 - administration, supervision or teaching of the process as defined in this section;
 - and the execution of the medical regimen as prescribed by a person licensed to practice medicine and surgery or a person licensed to practice dentistry.⁴
4. A "professional nurse" means a person who is licensed to practice professional nursing as defined in [K.S.A. 65-1113] (d)(2).⁵ "Advance practice registered nurse" or "APRN" means a professional nurse who holds a license from the Board to function as professional nurse in an advanced role.⁶
5. The Board may deny, revoke, limit, or suspend any license or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced practice registered nurse, or as a registered nurse anesthetist that is issued by the Board if the licensee is found to be guilty of unprofessional conduct as defined by rules and regulations of the Board.⁷
6. The following shall constitute "unprofessional conduct": practicing without a license or while the license has lapsed.⁸
7. It shall be unlawful for any person to practice or to offer to practice as an advanced practice registered nurse in this state; or to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is an advanced practice registered nurse, unless such person has been duly issued a license as an advanced practice registered nurse under the Kansas nurse practice act.⁹

³ K.S.A. 65-122(b).

⁴ K.S.A. 65-1113(d).

⁵ K.S.A. 65-1113(e).

⁶ K.S.A. 65-1113(g).

⁷ K.S.A. 65-1120(a)(7).

⁸ K.A.R. 60-3-110(w).

⁹ K.S.A. 65-1114(b)(1) and (2).

8. Where the law is silent, the burden of proof in an administrative hearing is a preponderance of evidence.¹⁰ A preponderance of the evidence means evidence that shows the fact is probably more true than not true.¹¹

Analysis

1. First, addressing the Motion to Dismiss. The ALJ finds that Kansas Administrative Regulation utilized in the Siple matter was not discussed in Burkman. What the regulatory scheme was in 1975 could have been quite different than it appears today. In addition, administrative processes do not allow for the Presiding Officers/ALJs to apply equity to the matters before them. The purpose of administrative procedures is to ensure that actions taken by government agencies comply with the agency's statutory and regulatory schemes.* To apply Burkman would require the ALJ to disregard current statutory and regulatory schemes. Siple's Motion to Dismiss is denied.
2. The Board has the authority to assess a civil penalty not to exceed \$1,000.00 for a violation of a law or rule and regulation.¹²
3. The facts in this matter are that a licensee of the Board practiced nursing by utilizing specialized knowledge she derived from biological, physical, and behavioral sciences to counsel and teach of the processes related to dementia. On her website, Siple used the title Nurse Practitioner.¹³ This indicates that she was an advanced practice registered nurse, duly licensed by the Board.
4. Between June 1, 2024, through October 31, 2024, Siple was not duly licensed by the Board. Nevertheless, Siple held herself out as a nurse practitioner and made presentations, counseled, and taught changes in the normal health processes related to dementia. These activities amount to the practice of nursing¹⁴ and are, by definition, unprofessional behaviors.¹⁵
5. Siple's violation of the Kansas Nurse Practice Act may not have been purposeful. However, intent is not a requirement of unprofessional conduct pursuant to K.A.R. 60-3-110(w).
6. The Board is tasked with enforcing the Kansas Nurse Practice Act and is authorized to deny, revoke, limit, suspend any license or authorization to practice, or assess a civil fine for violations of the Kansas Nurse Practice Act. The Board's statutes and regulations apply equally to those it licenses. In this matter, Siple participated in activities paramount to the practice of nursing, doing so was a violation of the Kansas Nurse Practice Act.

¹⁰ *Bender v. Clark*, 744 F.2d 1424, (1984).

¹¹ *In re B.D.-Y.*, 286 Kan. 686, 187 P.3d 594 (2008).

¹² K.S.A. 74-1110.

¹³ K.S.A. 65-1113(g).

¹⁴ K.S.A. 65-1113(d).

¹⁵ K.A.R. 60-3-110(w).

Conclusion

The Board has shown by a preponderance of the evidence that Siple displayed unprofessional conduct and violated the Kansas Nurse Practice Act, and it is within the Board's authority to assess a fine for the violation. The Summary Order issued by the Board on March 24, 2025, is affirmed.



Sandra L. Sharon
Administrative Law Judge/Presiding Officer
Office of Administrative Hearings
1020 S. Kansas Ave.
Topeka, KS 66612
Telephone: 785-296-2433

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: Carol Moreland, 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.

CERTIFICATE OF SERVICE

On September 10, 2025, I mailed this original document through State Building
Mail to:

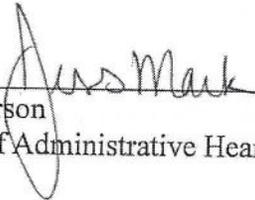
Carol Moreland
Executive Administrator
Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612
Telephone: 785-296-4325

and a copy of this document has been served with each of the following persons by US mail to:

Amy Rose Siple
11412 SW 125th St
Sedgwick, KS 67135

and that the foregoing has been served electronically via OAH's e-filing system to:

Sydney M. Winslow
Assistant Attorney General
Disciplinary Counsel for the Kansas State Board of Nursing
900 SW Jackson, LSOB, Ste. 1051
Topeka, KS 66612
Telephone: 785-296-4325



Staff Person
Office of Administrative Hearings