

BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF APPLICATION
FOR REISSUANCE OF LICENSE BY:
LISA MARIE BIGGS,
AKA: LISA CUNDIFF, LISA JOHNSON,
TO PRACTICE PRACTICAL
NURSING IN THE STATE OF ARIZONA

**ORDER OF DENIAL
NO. 1308062**

On September 18, 2015, the Arizona State Board of Nursing (“Board”) considered the application for licensure of Lisa Marie Biggs (“Applicant”).

FINDINGS OF FACT

1. Applicant previously held Board-issued practical nursing license number LP035553, from on or about March 17, 2000, until on or about October 29, 2003. On or about July 7, 2000, the Board issued Applicant a Letter of Concern for her 1996 and 1998, fraud-bad check convictions in Columbia, Missouri, which she had not disclosed to the Board. On or about October 29, 2003, the Board revoked Applicant’s license, in part due to her January 22, 2003, conviction, in case number CR2002-0889, of theft, a class 3 felony, in Yavapai County Superior Court in Yavapai County, Arizona. Applicant’s sentence included 5 years of probation and payment of \$14,447.79, in restitution.

2. On or about August 2, 2013, Applicant applied for reissuance of license number LP035553. On her application, Applicant answered “Yes” to the question, “Have you ever been convicted, entered a plea of guilty, nolo contendere or no contest or have you ever been sentenced, served time in jail or prison, or had deferred prosecution or deferred sentence in any felony or undesignated offense?” Instructions on the application state, “If yes, provide a written explanation of the details of each conviction and sentence. Return the written explanation, a copy of the police report and court documents for each conviction, indicating type of conviction,

conviction date and sentence including the date of absolute discharge of the sentence for each felony conviction with your application.” Applicant states in a note that she “over drew” her bank account and “had bounced checks,” and “served time” for her “mistake.” She attached a June 12, 2008, discharge from the Arizona Department of Corrections related to case number CR2002-0880. Applicant states, “I have completed all that was asked of me for probation.” Applicant failed to disclose that she still owed over \$8,000 in restitution, which was part of her probation in case number CR2002-0880. Applicant signed the application’s Verification by Oath or Affirmation or Declaration in which she declared “under the penalty of perjury” that she had not suppressed any information, and that she understood that failure to disclose the requested information or disclosure of false or misleading information may constitute fraud and may result in denial of certification, and criminal prosecution. Applicant failed to disclose that she had another felony conviction in Maricopa County, which was related to obtaining payment for work as a licensed practical nurse at Meadow Park Care Center in Arizona after her license was revoked. With her application, Applicant completed a questionnaire that instructed Applicant to “List the places you have been employed since your revocation.” In response, Applicant listed several employers, but failed to disclose Meadow Park Care Center. Based on her application for reissuance, the Board conducted an investigation.

3. On or about March 4, 2004, the Board issued Applicant a Cease and Desist Order to Applicant after receiving information that she had been representing herself as a nurse. The Board reminded Applicant that her license was revoked on or about October 29, 2003, and alleged that on or about January 6, 2004, she completed an application at Meadow Park Care Center seeking a position as a nurse, and that she accepted a position and worked as an LPN on or about January 9, 2004; that it was reported on or about February 19, 2004, that Applicant

accepted employment as a nurse for Dr. Peter Powers in Prescott, Arizona; and of or about February 24, 2004, it was reported that she accepted a position as a licensed practical nurse with Mile High Medical in Prescott, Arizona, and that these actions were violations of the law.

4. On or about November 16, 2005, in case number CR2005-014781, an Indictment was filed charging Applicant with four counts of forgery, class 4 felonies; theft, a class 4 felony; and theft, a class 6 felony, in Maricopa County Superior Court in Maricopa County, Arizona. According to the Indictment, two of the forgery charges were related to allegations of Applicant submitting an application [for practical nursing licensure] to the Board which contained false information on or about March 17, 2000; and submitting a written response to the Board which contained false information on or about June 5, 2002 [during the Board's investigation into her felony charges in case number CR2002-0880]. The other charges were related to allegations of Applicant submitting applications to Meadow Park Care Center which contained false information on March 11, 2003 and January 9, 2004, and being paid for working as a practical nurse at Meadow Park Care Center from March 11, 2003 to May 7, 2003, and again January 9, 2004, to January 12, 2005, [after Applicant's practical nursing license was revoked].

5. On or about January 11, 2007, in case number CR2005-014781, Applicant was convicted, pursuant to a guilty plea, of theft, a class 4 felony. Applicant's sentence included a term of probation and payment of restitution to Meadow Park Care Center of \$3,126.24. On or about June 14, 2010, Applicant was discharged from probation. The Court noted that Applicant failed to comply with a condition of her probation related to payment of Court-ordered fees, and issued a Criminal Restitution Order for \$215.00. On or about June 18, 2010, Applicant satisfied the judgment against her in the Criminal Restitution Order.

6. On or about August 15, 2012, in case number CR2005-014781, Applicant filed an Application to Restore Civil Rights, Restore Gun Rights, and Set Aside Judgment of Guilt, for her conviction of theft in Maricopa County (AZ) Superior Court. Applicant had signed the Application on or about August 13, 2012, and answered “Yes” to the item, “That the above stated judgment of guilt and conviction for a felony is the defendant’s first felony conviction in this or any other state.” However, Applicant had the January 22, 2003, conviction, in case number CR2002-0889, of theft, a class 3 felony, in Yavapai County, Arizona. On or about October 12, 2012, in case number CR2005-014781, the Court granted Applicant’s application to restore her right to possess a firearm and her other civil rights. The application to set-aside the judgment was denied, due to “Recency of discharge.”

7. On or about August 9, 2012, Applicant applied for a Medical Assistant position with Keith A. MacKenzie, D.O., P.C. On her application, Applicant answered, “No” to the question, “Have you ever been convicted of a crime other than a minor traffic violation?” Applicant failed to disclose her 1996 and 1998, fraud-bad check convictions in Missouri, her January 22, 2003, conviction, of theft, a felony, in Yavapai County, and her January 11, 2007, conviction of theft, a felony, in Maricopa County.

8. On or about July 20, 2013, according to Prescott Valley Police Department report number 13-23772000, an adult male victim told police that Applicant became angry while at his residence and Applicant threw a glass cup containing a drink at him, and the glass shattered on the wall. The male said that Applicant also slapped his face, and that after Applicant got into her car to leave, she backed into a concrete wall and driveway gate, causing damage, then Applicant drove away. Police cited Applicant for disorderly conduct/domestic violence, assault/domestic violence, and criminal damage/domestic violence. On or about August 22, 2014, in case number

CR2013-0676, an Amended Complaint was filed (re-) charging Applicant with disorderly conduct/domestic violence, assault/domestic violence, criminal damage/domestic violence, misdemeanors, in Prescott Valley Magistrate Court in Yavapai County, Arizona. Applicant, who had applied for reissuance of licensure on or about August 2, 2013, failed to report she was charged, as required by statute and rule. On or about September 26, 2013, Applicant was convicted, pursuant to a no contest plea, to disorderly conduct and criminal damage, misdemeanors.

9. On or about September 5, 2013, Board Staff mailed Applicant a letter reminding her that as an applicant for reissuance, she was required to submit documentation showing that the basis for her revocation has been removed, and that reissuance of her license would no longer constitute a threat to public health or safety. The mailing also included a questionnaire with instructions to provide a written explanation and specific court and police records regarding each of her arrests, citations or charges, by October 4, 2013. Applicant was informed in the letter that failure to cooperate with the Board during an investigation could be considered a violation of the Nurse Practice Act and it could lead to a disciplinary action.

On or about September 26, 2013, the Board received Applicant's incomplete response. Applicant provided police and court records for case number CR2002-0889, letters of reference, documentation of completing classes, and a letter from the Office of the Inspector General indicating she is no longer excluded from federal healthcare programs. Applicant filled-out the Arrest/Citation/Charge Questionnaire for her 2003 theft conviction in case number CR2002-0889. In response to the item, "What was your sentence? (Include all fines, courses, counseling or group sessions, restitution, probation/parole, community service)," Respondent answered, "Sentenced 1/22/2003 for theft returned checks on personal bank account." Applicant failed to

report that her sentence included fines or restitution, or state that she still owes over \$8,000 for case number CR2002-0889, which was one of the causes of her previous license revocation.

This outstanding restitution prevents Applicant from reaching “absolute discharge” of her felony conviction, pursuant to A.R.S. § 32-1601(1), meaning that Applicant is barred from obtaining licensure. Applicant failed to provide proof that she had completed all terms of her sentence in case number CR2002-0889. Applicant signed the Questionnaire under the statement, “I verify that the above information provided by me is true, complete, and correct and I have disclosed each of my arrests, citations, and charges, for felonies and misdemeanors, including incidents that did not ultimately result in convictions.” Applicant failed to disclose her 1996 and 1998, fraud-bad check convictions in Missouri, or her January 11, 2007, conviction of theft, a felony, in Maricopa County. Applicant also failed to disclose her 2013 charges or conviction in Prescott Valley.

CONCLUSIONS OF LAW

Pursuant to A.R.S. § 32-1606(B), the Board is required to deny licensure to an applicant who has one or more felony convictions, and who has not received an absolute discharge for the sentence(s) for all felony convictions five or more years prior to the date of filing an application pursuant to this chapter.

In light of the above Findings of Fact, the Board has cause to deny the application for licensure of Lisa Marie Biggs, pursuant to A.R.S. § 32-1606 and 32-1663(A) and (B), as defined in A.R.S. § 32-1601 (22) (a)(Committing fraud or deceit in obtaining, attempting to obtain or renewing a license or certificate issued pursuant to this chapter); (b)(Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive

evidence of the commission); (d)(Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public); (g)(Willfully or repeatedly violating a provision of this chapter or a rule adopted pursuant to this chapter); (h)(Committing an act that deceives, defrauds or harms the public); (j)(Violating a rule that is adopted by the Board pursuant to this chapter); (effective August 2, 2012); and A.A.C. R4-19-403 (2)(Intentionally or negligently causing physical or emotional injury)(effective January 31, 2009); (15)(Removing, without authorization, any money, property, or personal possessions, or requesting payment for services not performed from a patient, employer, co-worker, or member of the public)(effective January 31, 2009); A.A.C. R4-19-403(20)(Engaging in fraud, misrepresentation, or deceit in taking a licensing examination or on an initial or renewal application for a license or certificate)(effective January 31, 2009); A.A.C. R4-19-403(21)(Impersonating a nurse licensed or certified under this Chapter)(effective January 31, 2009); A.A.C. R4-19-403(24)(Practicing nursing without a current license or while the license is suspended)(effective January 31, 2009); A.A.C. R4-19-403(25)(Failing to): (a)(Furnish in writing a full and complete explanation of a matter reported pursuant to A.R.S. § 32-1664)(effective January 31, 2009); A.A.C. R4-19-403(26)(Making a written false or inaccurate statement to the Board or the Board's designee in the course of an investigation)(effective January 31, 2009); A.A.C. R4-19-403 (28)(If a licensee or applicant is charged with a felony or a misdemeanor involving conduct that may affect patient safety, failing to notify the Board in writing, as required under A.R.S. § 32-3208, within ten days of being charged. The licensee or applicant shall include the following in the notification: a) Name, address, telephone number, social security number, and license number, if applicable; b) Date of the charge; and c) Nature of the offense)(effective January 31, 2009); A.A.C. R4-19-403(31)(Practicing in any other manner that gives the Board reasonable cause to believe the

health of a patient or the public may be harmed)(effective January 31, 2009); and A.R.S. § 32-3208 (B) (An applicant for licensure or certification as a health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after submitting the application must notify the health professional's regulatory board in writing within ten working days after the charge is filed); (E)(The regulatory Board may deny the application of an applicant who does not comply with the notification requirements of this section) (effective September 18, 2003); A.A.C. R4-19-404(B)(A person whose nursing license is denied, revoked, or voluntarily surrendered under A.R.S. § 32-1663 may apply to the Board to issue to re-issue the license): (1)(Five years form the date of denial or revocation); (C)(A person who applies for issuance or re-issuance of a license under the conditions of subsection (B) is subject to the following terms and conditions): (1)(The person shall submit a written application for issuance or reissuance of the license that contains substantial evidence that the basis for surrendering, denying, or revoking the license has been removed and that the issuance or re-issuance of the license will not be a threat to public health or safety); (4)(After consideration of the application and any information required under subsection (C)(2), the Board may): (c)(Deny the license if the Board determines that licensure might be harmful or dangerous to the health of a patient or the public) (effective January 31, 2009); and ARS § 32-1637(An applicant for a license to practice as and assume the title of a licensed practical nurse shall file with the board a verified written application accompanied by the prescribed fee and shall submit satisfactory proof that the applicant): (2)(If convicted of one or more felonies, has received an absolute discharge from the sentences for all felony convictions five or more years before the date of filing the application); A.R.S. § 32-1636(B)(Only a person who holds a valid and current license to practice practical nursing in this state or in a party state as defined in section 32-1668 may use

the title “nurse”, “licensed practical nurse” or “practical nurse” or the abbreviation “L.P.N.”); ARS § 32-1666 (A)(It is unlawful for a person not licensed or certified under this chapter to):(1) (Practice or offer to practice as a registered or practical nurse, registered nurse practitioner or clinical nurse specialist in this state), (2) (Represent or use any title, abbreviation, letters, figures, sign, card or device to indicate that the person or any other person is a registered nurse, graduate nurse, professional nurse, nurse practitioner, clinical nurse specialist or practical nurse); and A.R.S. § 32-1667 (A person is guilty of a class 6 felony who): (2)(Engages in any conduct prohibited in section 32-1666); (4)(Practices nursing under cover of any diploma, license, permit or record illegally or fraudulently obtained, signed or issued unlawfully or because of fraudulent representation).

ORDER

NOW THEREFORE, IT IS ORDERED that the application of Lisa Marie Biggs for reissuance of licensure to practice as a practical nurse in the State of Arizona is denied and any temporary license issued to Applicant is hereby revoked. Pursuant to A.A.C. R4-19-609, the effective date of the Order of Denial is upon expiration of the time for filing an appeal, 30 days after the date of service of the order of Denial.

IT IS FURTHER ORDERED that Applicant is not eligible to reapply for said license pursuant to A.A.C. R4-19-404 for at minimum, five years from the effective date of the order of Denial, or five years from the date of the absolute discharge of all felony convictions, whichever is later.

PURSUANT TO A.R.S. § 41-1092.03, any person aggrieved by this Order may apply to the Board, in writing, within thirty days of receipt and request a public hearing with respect to this Order. If you request a public hearing with respect to this order, you also have the right to

request an informal settlement conference by filing a written request with the Board, pursuant to A.R.S. § 41-1092.06, no later than 20 days before the scheduled hearing. The conference will be held within 15 days after receipt of your request. Please note that you waive any right to object to the participation of the Board's representative in the final administrative decision of the matter if it is not settled at the conference. For answers to questions regarding the appeals process, contact Trina Smith, at (602) 771-7844.

Dated this 18th day of September, 2015.

SEAL

ARIZONA STATE BOARD OF NURSING

Joey Ridenour R.N. M.N. F.A.A.N.

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director

COPY mailed this 22nd day of September, 2015, by First Class Mail and by Certified Mail No. 7015 0640 0007 1010 9171 to:

LISA MARIE BIGGS



By: R. Carr
Legal Secretary