

BEFORE THE KANSAS STATE BOARD OF NURSING
LANDON STATE OFFICE BUILDING
900 S.W. JACKSON, #551-S
TOPEKA, KANSAS 66612-1230



IN THE MATTER)
)
OF) Case No: 93-0046-0
)
DONNA GRIFFITH)
)
LICENSE NO. 14-072124-091)

PROPOSED DEFAULT ORDER

NOW ON THIS 31st day of March, 1995, the above-captioned matter comes on for hearing before Terry E. Beck, Hearing Officer designated by the Board, on the Petitioner's Motion to Show Cause. The Petitioner/movant appears by and through Assistant Attorney General Mark S. Braun, Board Disciplinary Counsel. Respondent does not appear.

Whereupon, the Hearing Officer asks the Petitioner if he is ready to proceed. Petitioner's counsel states he is ready and, pursuant to K.S.A. 77-520, states an oral motion for a default judgment based on the Respondent's failure to appear. In support of the motion, the Petitioner states as follows:

1. The Notice of Hearing, which included a copy of the Motion to Show Cause, was served on the Respondent at her last address known to the Board, 4917 N.E. Park Lane, Kansas City, Missouri 64118. Further, the Motion to Show Cause includes a certificate of

service indicating that the motion was also served on the Respondent at the same address. The Notice of Hearing and Motion to Show Cause were served on the Respondent by mail on March 17, 1995. More than ten (10) days have elapsed since the Respondent was served.

2. Respondent does not appear.

3. No written notice, request for continuance, or other communication was received by the Board from the Respondent as is provided for in the Notice of Hearing.

4. Respondent has appeared before the Board and is somewhat familiar with the Board's proceedings.

5. Petitioner offers the Hearing Officer a proffer that if this matter were to proceed to hearing, witnesses from the Board staff would be called to testify. The testimony would be that after the Board's Order granting Respondent her license, she met with Ms. Diane Glynn, the Board's Practice Specialist to make arrangements to make payments to the Board for her administrative fine previously ordered by the Board. Further, the testimony would be that several letters were written to the Respondent, but to date no payments toward the fine have been received.

Whereupon, after reviewing the Agency Record, the Hearing Officer makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent has been entitled to practice in Kansas as a registered professional nurse (R.N.), having been issued license number 14-072124-091.

2. A Notice of Hearing and a copy of the Motion to Show Cause were served on the Respondent by United States Mail, first class postage prepaid, on March 17, 1995, to the Respondent at her last address known to the Board, setting the hearing date for March 31, 1995. More than ten (10) days have elapsed since Respondent was served. Therefore, notice and service are found to be proper in this case.

3. Respondent does not appear and has not provided any notice or reason for not appearing.

4. At a September 22, 1994 hearing, a panel of Board members issued the Respondent a limited license to practice as a registered professional nurse in the State of Kansas. The Respondent was assessed a one thousand (\$1,000.00) dollar fine and was directed to arrange the terms of payment of the fine with Ms. Diane Glynn, the Board's Practice Specialist.

5. On October 11, 1994, an Initial Order stating the panel's decision was filed with the Board. The Initial Order was served on the Respondent by placing a copy of that Initial Order in the United States Mail, postage prepaid on October 11, 1994, to her at her last known address. A Notice Regarding Relief From This Order was attached to the Initial Order.

6. No relief or review was sought by either party as allowed by the Kansas Administrative Procedures Act (KAPA), K.S.A. 77-501.

7. The Initial Order became the Board's Final Order effective thirty (30) days after service of the Initial Order.

8. On March 17, 1995, the Petitioner filed a Motion to Show Cause. The motion and the Notice of Hearing were served on the

Respondent On March 17, 1995, by first class mail to the last known address.

9. There has been no response or contact with the Board or Board staff by the Respondent regarding this matter.

10. Proffered testimony indicates the Respondent made arrangements to pay the fine, but that no payments were made.

11. To date, no payments toward the fine have been made.

CONCLUSIONS OF LAW

1. The Board, and by designation this Hearing Officer, has jurisdiction to hear this matter pursuant to K.S.A. 65-1113, et seq.

2. This Board has jurisdiction over the Respondent as a licensee of the Board.

3. The Hearing Officer, by designation of the Board, has the authority to issue disciplinary action against the Respondent's license to practice as a registered professional nurse (R.N.) in Kansas, according to the Kansas Administrative Procedures Act, K.S.A. 77-501, et seq.

4. Notice of Hearing and service of the notice were done in accordance with requirements of the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq., and the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., and therefore, are found to be proper.

5. K.S.A. 65-1120(b) authorizes the Board to conduct all proceedings in accordance with the provisions of the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

6. Respondent is in violation of the Board's Initial Order,

which became effective thirty (30) days after it was served and no relief was sought from that Initial Order.

7. The Board, and the Hearing Officer by the Board's designation, has the authority to issue proposed default orders pursuant to the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

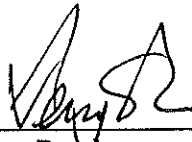
8. Respondent does not appear and is found to be in default in these proceedings.

9. Therefore, Respondent is found to have violated the Board's Initial Order by not making any of the payments toward her fine.

ORDER

Based upon the Findings of Fact and Conclusions of Law, **It Is Ordered** that the license issued to Donna Griffith, to practice as a registered professional nurse in the State of Kansas is hereby **suspended** until September 30, 1995, or until further order of the Board. Respondent may not practice as a nurse in the State of Kansas during the period of suspension.

IT IS SO ORDERED



Terry E. Beck
Hearing Officer

PREPARED AND SUBMITTED BY:



Mark S. Braun
Assistant Attorney General
Disciplinary Counsel
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson, Suite 551-S
Topeka, Kansas 66612-1230
(913) 296-8401

NOTICE REGARDING THIS PROPOSED DEFAULT ORDER

This is a Proposed Default Order. The party against whom it is issued may file a written motion with seven (7) days after service, requesting that the Proposed Default Order be vacated and stating the grounds relied upon.

The Proposed Default Order shall become effective after expiration of the time within which the party may file a written motion to vacate the Order is filed with the agency within such time.

Upon receipt of a motion to vacate a Proposed Default Order, the Presiding Officer shall either vacate the Proposed Order or issue the Default Order as proposed. If the Hearing Officer issues a Default Order as proposed, the Order shall become effective upon service.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Proposed Default Order was served by depositing same in the United States Mail, first class postage prepaid, this 21st day of April, 1995, to:

Donna Griffith
4917 Park Lane
Kansas City, Missouri 64118

And by hand delivering a copy of same to:

Mark S. Braun
Disciplinary Counsel
Kansas State Board of Nursing
Landon State Office Building
900 S.W. Jackson, Room 551-S
Topeka, Kansas 66612-1230

Diane M. Glynn

Diane M. Glynn, J.D., R.N.
Practice Specialist