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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)
)
JULIE MILLER)
LICENSE NUMBER 23-018290-062)

Case No: 93-0113-8



PROPOSED DEFAULT ORDER

NOW ON THIS 5th day of August, 1994, the above-captioned matter comes on for hearing on the Petition before the Honorable Terry E. Beck, hearing officer designated by the Board. The Petitioner appears by and through Assistant Attorney General Mark S. Braun, Board Disciplinary Counsel. Respondent appears in person.

Whereupon, the Hearing Officer informs the Respondent of her right to counsel. Respondent states she does not wish to obtain counsel. The Hearing Officer inquires of the Respondent whether she understands the allegations in the Petition. Respondent indicates she understands the allegations. The Hearing Officer inquires of the Respondent whether she wants to proceed to hearing in the matter, or what her position is regarding the allegations. Respondent states she is guilty and admits to the allegations in the Petition.

Whereupon, the Hearing Officer, based on the Respondent's admission to the Petition alleging violations of the Kansas Nurse Practice Act, makes the findings that Respondent violated the Kansas Nurse Practice Act as stated in the Petition.

Whereupon, the matter proceeds to disposition. The Hearing Officer invites both parties to make statements regarding disposition. Both parties make their statements. Petitioner seeks denial of the reinstatement application. Respondent seeks reinstatement of her license to practice nursing as an L.P.N. The Hearing Officer inquires about what Respondent needs to obtain her license or meet previous conditions. Petitioner and Respondent are in agreement that the Respondent needs eight (8) hours of continuing education and to finish paying a fine of one hundred eighty (\$180) dollars for her unlicensed practice in 1993, pursuant to an Administrative Fine Agreement between the Board and the Respondent. Petitioner further seeks an additional eighty (\$80) dollar fine for the unlicensed practice in 1994. The Hearing Officer orders that disposition of this matter is continued to 2:00 p.m. September 23, 1994, in order to give the Respondent the opportunity to seek the needed continuing education and to pay the previously agreed upon fine of one hundred eighty (\$180) dollars.

IT IS SO ORDERED

NOW ON THIS 23rd day of September, the above-captioned matter comes on for disposition hearing before the Honorable Terry E. Beck, hearing officer designated by the Board. Petitioner appears through Mark S. Braun, disciplinary counsel. Respondent does not

appear. The Hearing Officer inquires of the Petitioner whether he is ready to proceed. Petitioner states he is ready.

Petitioner states that while the Respondent was at the previous hearing of August 5, 1994, an Order To Continue was served on the Respondent by placing same in the U.S. Mail, first class, postage prepaid to the Respondent's address last known to the Board and provided by the Respondent on her latest reinstatement application. Petitioner further states that Board staff received a telephone call from a woman identifying herself as the Respondent calling to have the hearing continued. Board staff advised the Respondent she would have to submit such a request in writing. No such request was received.

Whereupon, the Hearing Officer, on his own, again orders that this matter be continued to 1:00 p.m. October 13, 1994.

IT IS SO ORDERED

NOW ON THIS 13th day of October, the above-captioned matter comes on for disposition hearing before the Honorable Terry E. Beck, Hearing Officer designated by the Board. The Petitioner appears through Mark S. Braun, disciplinary counsel. The 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. An Order To Continue setting the matter for disposition hearing from 2:00 p.m. September 23, 1994 to 1:00 p.m. October 13, 1994, was served on the Respondent on September 27, 1994, by placing same in the U.S. Mail, first class, postage pre-paid, to the Respondent's address last known to the Board at the address provided by her in her reinstatement application.

2. Respondent does not appear. The Board has not received any notice or other information from the Respondent, nor anyone on her behalf, indicating she would not be present for the hearing.

Whereupon, the Hearing Officer makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. At the August 5, 1994 scheduling docket, Respondent was present and admitted her guilt to two violations of the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq., alleged in the Petition for practicing nursing while not licensed to do so. On both occasions, Respondent's license lapsed and she failed to timely renew her license. She practiced nursing in Kansas without timely renewing, and before reinstating, her license.

2. A Petition and an Amended Petition alleging Respondent violated the Kansas Nurse Practice Act were served on the Respondent at her address last known to the Board. Therefore, the Board and this Hearing Officer have jurisdiction over the subject matter of these proceedings, pursuant to K.S.A. 65-1120 and K.S.A 77-501 et seq.

3. A Notice of Proceedings and a copy of the Amended Petition in this case were served on the Respondent by United States Mail, first class postage prepaid, on July 22, 1994, setting the hearing date for 1:00 p.m. August 5, 1994. Respondent was present at that hearing, and admitted to the Petition.

4. The matter was continued for disposition hearing for 2:00 p.m. September 23, 1994. An Order To Continue was served on the Respondent August 10, 1994, by placing same in the U.S. Mail, first class, postage prepaid, at her address last known to the Board.

5. Respondent failed to appear at the September 23, 1994 hearing. She apparently made telephone contact with the Board's office staff, but no formal request for continuance was made.

6. The matter was again continued to 1:00 p.m. October 14, 1994. An Order To Continue was served on the Respondent September 27, 1994, by placing same in the U.S. Mail, first class, postage prepaid, to the Respondent at her last address known to the Board.

7. Respondent failed to appear at the October 14, 1994 hearing. No notice, formal or otherwise, was received by the Board.

CONCLUSIONS OF LAW

1. The Board and 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 an applicant for reinstatement of her L.P.N. license.

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 licensed practical nurse (L.P.N.) in Kansas, according to the Kansas Administrative Procedures Act, K.S.A. 77-501, et seq.

4. Notices of the proceedings and service of the notices 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, by her own admission, violated the Kansas Nurse Practice Act as stated in the Petition.

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 at either of the scheduled disposition hearings and, therefore, is found to be in default in these proceedings.

ORDER

Based upon the Findings of Fact and Conclusions of Law, **It Is Ordered** that the application for reinstatement of her license submitted by the Respondent, Julie Miller, to practice as


a license practical nurse (L.P.N.), in the State of Kansas is hereby **denied**. Respondent may not practice as a nurse in the state of Kansas.

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
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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.

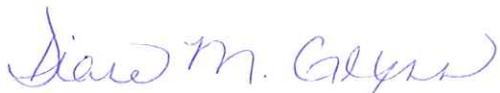
CERTIFICATE OF SERVICE

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 26th day of October, 1994, to:

Julie Miller
2436 Wisconsin
Topeka, Kansas 66606

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, J.D., R.N.
Practice Specialist