

Rex G. Beasley #08777
Assistant Attorney General
Kansas State Board of Nursing
Landon State Office Building
900 SW Jackson, Suite 551-S
Topeka, Kansas 66612-1230

BEFORE THE KANSAS STATE BOARD OF NURSING
LANDON STATE OFFICE BUILDING
900 S.W. JACKSON, ROOM 551-S
TOPEKA, KANSAS 66612-1230
(785) 296-8401

IN THE MATTER)
)
 OF) Case No. 98-0301-5
)
 TINA BALDERAS)
 LICENSE NO. 23-019981-091)

PROPOSED DEFAULT ORDER

On the 7th day of January, 1999 the above-captioned matter came on for a hearing before Terry E. Beck, the Board's designated Hearing Officer. The Petitioner appeared by and through Assistant Attorney General Rex G. Beasley Disciplinary Counsel for the Board. The Respondent did not appear.

Whereupon, the Hearing Officer asked the Petitioner if it was ready to proceed. Petitioner's counsel stated that the Board was ready and, pursuant to K.S.A. 77-520, made an oral motion for a default judgment based on the Respondent's failure to appear. In support of the motion, the Petitioner stated and showed the following:

1. Notice of the hearing date and time was duly served upon the Respondent on November 19, 1998 at the last address Respondent gave to the Board. On November 24, 1998 the notice was returned to the Board by the United States Post Office with a notation that stated:

"BALD723 672132211 1B97 11 11/21/98
FORWARD TIME EXP RTN TO SEND

BALDERAS' TINA M
1703 ARKANSAS AVE
WICHITA KS 67203-2572

RETURN TO SENDER"

Thereafter on December 9, 1998 the Board sent another notice and another copy of the petition to Respondent at 1703 Arkansas Avenue Wichita, Kansas 67203-2572.

2. No request for a continuance was made. Respondent did not appear at the hearing.
3. The allegations of the petition are true.

WHEREUPON, the Hearing Officer made the following findings of fact and conclusions of law:

1. Respondent was given proper notice as required by law.
2. Respondent failed to appear and was in default.
3. The allegations in the petition are true. Since the issuance of the license, Respondent

has committed numerous acts in violation of K.S.A. 65-1113, et seq., as follows:

- a. On or about August 28-31, 1996 Respondent failed administer medication to a patient as per the doctor's orders.
- b. On or about December 30, 1997, Respondent was counseled about three missing doses of Librium.
- c. On or about March 24, 1998 Respondent's employer discovered that narcotics were missing. Respondent and all other nurses who had access to the narcotics were asked to submit to a urine drug screen. Prior to the test Respondent confessed to her supervisor that her results would be positive for marijuana. Respondent denied a chemical dependency.

d. On or about March 27, 1998 Respondent's employer did another urine drug screen on Respondent. The urine sample given by Respondent was so diluted that it was not usable.

e. On or about March 24, 1998 Respondent was referred to the Kansas Nurse Assistance Program (KNAP) by her employer. KNAP sent Respondent a referral letter on March 24, 1998. On April 14, 1998 KNAP representatives contacted Respondent to find out why Respondent had not responded to their letter. Respondent reported that she did not have to go for an evaluation or comply with KNAP's requirements. Respondent was told that failure to comply would be a "reportable incident" to the Kansas State Board of Nursing. Respondent signed the KNAP forms and releases on April 15, 1998. Respondent continued to deny a chemical dependency but did agree to a chemical dependency evaluation.

f. On April 16, 1998 Respondent was asked to give another urine specimen for a drug test. Respondent was uncooperative and claimed that she could not produce a urine specimen. Respondent gave a urine specimen on April 17 which tested positive for marijuana.

g. Subsequent to April 17, 1998 Respondent failed to keep appointments with KNAP, and failed to answer letters and repeated telephone calls from KNAP.

h. On April 21, 1998 Respondent's employer terminated her for job abandonment

i. On May 5, 1998 KNAP closed its file on Respondent for non compliance.

4. Respondent's actions constitute violations of the Kansas Nurse Practice Act K. S. A. 65-1120(a)(2); K. S. A. 65-1120(a)(3); K. S. A. 65-1120(a)(4); K. S. A. 65-1120(a)(6); K. S. A. 65-

1120(a)(7); and other applicable rules, regulations and guidelines, and the public's trust, for which she should be disciplined.


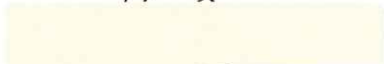
5. The Board's motion and petition should be granted.

6. Respondent's license to practice as a licensed practical nurse in the State of Kansas should be revoked.

IT IS THEREFORE ORDERED that the Respondent's license to practice as a licensed practical nurse in the State of Kansas should be, and is hereby, revoked. Respondent may not practice as a nurse in the State of Kansas. Respondent may not hold herself out as, or represent herself to be, a nurse in the State of Kansas. Respondent shall immediately surrendered her license card and all other evidence of licensure, if any, to the Board. Costs of the action in the sum of \$35.00 are hereby taxed to Respondent to be paid to the Board by cash, or money order, within 30 days of the effective date of this Order.


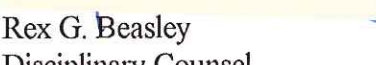
IT IS SO ORDERED.

Entered this 7th day of January , 1999.

Terry E. Beck
Hearing Officer

PREPARED AND SUBMITTED BY:



Rex G. Beasley
Disciplinary Counsel

NOTICE REGARDING THIS PROPOSED DEFAULT ORDER

This is a Proposed Default Order. The party against whom it is issued may file a written motion within seven (7) days after service, requesting that the Proposed Default Order be vacated and stating the grounds relied upon. Unless a written motion to vacate is filed, the Proposed Default Order shall become effective after expiration of the time Stated above. If a motion to vacate a Proposed Default Order is timely filed, 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 on the ^{8th} day of January, 1999, I deposited a true and correct copy of the Proposed Default Order in the United States Mail, first class mail, postage prepaid to the following:

Tina Balderas
1703 Arkansas Avenue
Wichita, Kansas 67203 2572

and by hand delivery to:

Rex G. Beasley
Assistant Attorney General
Kansas State Board of Nursing
900 S.W. Jackson Rm 551-S
Topeka, Kansas 66612-1230



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