

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

IN THE MATTER )

OF )

DAVID BRODERSON )

LPN LICENSE NO. 23-024712-101 )

Case No: 95-0547-9

PROPOSED DEFAULT ORDER

Now on this 24th day of February, 1998, the above-captioned matter comes on for hearing before Terry E. Beck, the Board's designated Hearing Officer, pursuant to the Petition and Order to Continue filed. The Petitioner appears by and through Assistant Attorney General Mark S. Braun, Disciplinary Counsel for the Board. The Respondent, David Broderson, 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 Petition and Notice of Hearing were served together on Respondent at his last address known to the Board, 2120 Hall's Landing, Manhattan, Ks. 66502 on

2. Prior to the scheduled hearing, Respondent contacted the Board informing the Board that he had moved and was residing and working in Texas. Respondent was informed he was still within his 30 day time frame of notifying the Board of a new address pursuant to K.S.A. 65-1117, and that the matter could be continued.

3. Petitioner's counsel and Respondent made arrangements to discuss the matter by telephone on January 21 or 22, whichever was a Thursday, in a call to be initiated by the Petitioner's counsel. Counsel made the call, but received no answer.

4. On January 14, an Order To Continue were served upon the Respondent at his new address: 3820 Del Rio Drive, Ft. Worth, Texas 76133, setting the matter for hearing February 24, 1998, Room 108 Landon State Office Building, 900 SW Jackson, Topeka, Kansas. More than ten (10) days has elapsed since the Respondent was served.

5. Respondent did not appear at the hearing, nor has there been any contact by him or anyone on his behalf.

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

#### FINDINGS OF FACT

1. Respondent has been licensed to practice as an LPN in Kansas, having been issued license number 23-024712-101, which was to expire October 31, 1997. Respondent timely filed his renewal application and is able to continue to practice nursing in Kansas until this matter is resolved.

2. On December 31, 1997, a Petition and Notice of Hearing were served upon the Respondent at his last address (in Manhattan)

known to the Board.

3. Respondent had apparently moved to Texas, and according to the Petitioner, Respondent was still within his 30 day change of address notification requirement when the Petition was served.

4. Petitioner stated that the Respondent contacted the Board about having just received the Petition and Notice of Hearing, and not being able to appear at the January 13, 1998 hearing.

5. An Order to continue was served upon the Respondent at his new address in Texas, setting the matter for hearing February 24, 1998.

6. Respondent did not appear at the hearing on February 24, 1998. Further, the Respondent did not seek any continuance, nor indicate any opposition to proceeding with the hearing.

7. The only contact by the Petitioner was the telephone contact about the time of the January 13, 1998 hearing date with Petitioner's counsel regarding receipt of the paperwork and information about a continuance.

8. Petitioner's counsel also stated there was to be subsequent telephone contact initiated by the Petitioner on January 21 or 22 (a Thursday), 1998, but apparently that contact was unsuccessful.

9. Based upon the Respondent's non-appearance, Respondent is found to have committed the acts alleged in the Petition.

#### CONCLUSIONS OF LAW

1. The Board and this Hearing Officer have jurisdiction to hear this matter pursuant to K.S.A. 65-1113, et seq., because they

relate to alleged violations of the Nurse Practice Act committed by the Respondent, a licensee of this Board.

2. The Hearing Officer, by designation of the Board, has the authority to issue disciplinary action against the Respondent's license to practice as a nurse in Kansas, according to the Kansas Administrative Procedures Act, K.S.A. 77-501, et seq., after he was found to have violated the Kansas Nurse Practice Act, K.S.A. 65-1113 et seq.

3. The Petition and Notice of Hearing 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 proper.

4. 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.

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

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


7. Based upon the Respondent's non-appearance and default, Respondent is found to have violated the Kansas Nurse Practice Act, as stated the Petition.

#### ORDER


Based upon the Findings of Fact and Conclusions of Law, It Is Ordered that the disposition in this case, pursuant to K.S.A. 65-

1120(a) and K.S.A. 74-1110, is that the Respondent's license to practice nursing as an LPN in Kansas is hereby revoked, and his pending application for LPN licensure renewal is hereby denied.

IT IS SO ORDERED.

  
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Terry E. Beck  
Hearing Officer

PREPARED AND SUBMITTED BY:

  
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Mark S. Braun  
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 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 5<sup>th</sup> day of March, 1998, to:

David Broderson  
3820 Del Rio Drive  
Ft. Worth, Texas 76133

And by hand delivering a copy of same to:

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

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