

**BEFORE THE KANSAS STATE BOARD OF NURSING**

Landon State Office Building, 900 S.W. Jackson #1051  
Topeka, Kansas 66612-1230

**FILED**

**JUL 28 2009**

**IN THE MATTER OF  
KIMBERLYNN FOUST  
License No. 23-032772-062**

**KSBN**

**Case No. 08-1067-6**

**PROPOSED DEFAULT ORDER TO DENY LICENSE**

NOW ON THIS 28<sup>th</sup> day of July, 2009, petitioner, the Kansas State Board of Nursing, appears by disciplinary counsel, Mark A. Knight, for a Hearing on the Petition. Respondent does not appear.

Wherefore, the Presiding Officer finds as follows:

1. Respondent was licensed as a licensed practical nurse through 6/30/2008. Respondent submitted a Reinstatement Application to the Board on or about 12/1/2008. The Kansas State Board of Nursing has jurisdiction over the Respondent and the subject matter of this action.
2. Respondent was sent a copy of the petition and notice of this hearing to respondent's last known address and service is proper. Respondent does not appear.
3. Petitioner moves for issuance of a proposed default order denying the respondent license to practice nursing in the state of Kansas. The petitioner's request is granted by default pursuant to K.S.A. 77-520.
4. The petition is hereby granted and incorporated into this order as if set forth herein. Respondent violated the Nurse Practice Act as alleged in the petition.
5. Per petitioner's request, respondent's application to practice nursing is denied. Respondent may not practice nursing in Kansas.
6. Costs of the action of \$70 are assessed to respondent to be paid to the board by cash or money order within 30 days of the effective date of this order.

7. This Proposed Default Order shall become effective seven days after service or ten days after mailing of this order unless the Respondent files a written motion with the Board stating why the Proposed Default Order should be vacated and the order is then vacated.

8. If this Proposed Default Order becomes effective, the Respondent's request for administrative hearing is dismissed pursuant to K.S.A. 77-520(d).

9. Disciplinary counsel shall mail a copy of this proposed default order to respondent's last known address.

**IT IS SO ORDERED.**



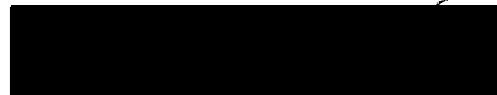
Sandra L. Sharon, Presiding Officer  
Office of Administrative Hearings  
1020 S Kansas Ave.  
Topeka, KS 66612-1327

**NOTICE**

Pursuant to K.S.A. 77-527, either party may request a review of this order by filing a petition for review with the Kansas State Board of Nursing. The petition for review shall state its basis. A petition for review must be filed within 15 days from the date this order becomes effective. Failure to timely request a review by the Kansas State Board of Nursing may preclude further judicial review. The petition for review shall be mailed or personally delivered to: State Board of Nursing - Legal Division, Landon State Office Building, 900 SW Jackson, Ste 1051, Topeka, KS 66612-1230.

Pursuant to K.S.A. 77-530, if neither party requests a review by the Kansas State Board of Nursing, then this initial order becomes final and binding on both parties on the 30<sup>th</sup> day following its service.

Pursuant to K.S.A. 77-531, if the initial order is served by mail, three days are added to the time limits set out above.



Mark A. Knight, #12183  
Disciplinary Counsel  
Kansas State Board of Nursing  
900 S.W. Jackson, Suite #1051  
Topeka, KS 66612-1230  
785-296-4325

**CERTIFICATE OF SERVICE**

I certify that on the 28<sup>th</sup> day of July, 2009, the foregoing copy of the Proposed Default Order To Deny License was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Kimberlynn Foust  
220 McAtee Rd  
Iola, KS 66749



Mark A. Knight  
Assistant Attorney General

August 14, 2009

IN THE MATTER OF  
Kimberlynn Foust  
License No. 23 032772 062  
Case No.: 08 1067 6  
OAH No.: 09BN0111

Kimberlynn Foust  
220 McAtee Rd.  
Iola, KS 66749

Mark A. Knight  
Assistant Attorney General  
Kansas State Board of Nursing  
Landon State Office Bldg.  
900 SW Jackson, #1051  
Topeka, KS 66612

Dear Ms. Foust and Mr. Knight:

This correspondence shall serve as the Presiding Officer's response to the respondent's request that the Proposed Default Order issued in the above-captioned matter on July 28, 2009 be vacated.

- The Notice of Prehearing Conference was served in the respondent by mail on May 8, 2009, pursuant to K.S.A. 77531.
- The respondent contacted the Kansas State Board of Nursing (Board) and provided a telephone number where she could be reached for the prehearing.
- Three telephone calls were place to the telephone number provided to the Board. The telephone calls were not answered.
- A Proposed Default Order was issued on July 28, 2009 due to the respondent's failure to participate in the prehearing as scheduled.
- Paragraph 7 of the Proposed Default Order informs the respondent that Proposed Default Order will become effective 10 days after the Proposed Default Order is issued if not vacated within 10 days of its issuance.
- The Proposed Default Order became effective August 7, 2009
- The respondent's Motion to Vacate the Proposed Default Order is untimely. The Presiding Officer no longer has jurisdiction over the matter.
- The respondent's request to vacate the Proposed Default Order is denied.
- The Notice included with the Proposed Default Order explains the respondent's appeal options.

Sincerely,



Sandra L. Sharon, Presiding Officer  
Office of Administrative Hearings

SLS:jv