

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: 95-0192-7
)
GEORGE CLARK)
LICENSE NO. 23-007075-061)

PROPOSED DEFAULT ORDER

Now on this 14th day of December, 1995, the above-captioned matter comes on for a scheduling docket hearing before Terry E. Beck, the Board's designated Hearing Officer, on the Petition filed with the Board. The Petitioner appears by and through Assistant Attorney General Mark S. Braun, Disciplinary Counsel for the Board. The Respondent, George Clark, does not appear. The matter is set over to February 23, 1996 for hearing as set forth in the previous Notice of Hearing. The Hearing Officer notes for the record that the Petition and Notice of Proceedings were served on the Respondent December 1, 1995, by placing same in the United States Mail to him at 6420 W. 82nd Terrace, Overland Park, Kansas 66204-3927.

NOW ON THIS 23rd of February, 1996, the above-captioned matter comes on for hearing on the Petition, before 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 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 Proceedings, which included: a copy of the Notice of Scheduling Docket and Notice of Hearing, and the Petition were served on the Respondent at his last address known to the Board, 6420 W. 82nd Terrace, Overland Park, Kansas 66204-3927, on December 1, 1995.

2. The Notice of Proceedings stated that the Scheduling Hearing was set for December 14, 1995 and that the Hearing was scheduled for February 23, 1996. More than ten (10) days have elapsed since the Respondent was served notice for each of those dates.

3. Respondent did not appear at either hearing.

4. The only response from the Respondent was a handwritten letter dated December 9, 1995 and received by the Board December 11, 1995 indicating that the Respondent wanted his license placed on an inactive status, and that he would not be at the December 12, hearing because he could not sit in a car for that period of time.

5. No written notice or request for continuance was received by the Board as is provided for in the Notice of Proceedings.

6. There was no hearing scheduled for December 12, 1995.

Whereupon, 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 (LPN), having been issued license number 23-007075-061, with an expiration date of June 30, 1997. Therefore, this Board and Hearing Officer have jurisdiction over this Respondent.

2. On December 1, 1995, Respondent was served at his last address known to the Board with the Petition and a Notice of Proceedings, which included Notice of a December 14, 1995 Scheduling Docket and a February 23, 1996 Hearing.

3. Respondent failed to appear on either date. Further, the Respondent did not seek any continuance, nor indicate any opposition to proceeding with the hearing. Respondent did ask to have his license placed on inactive status.

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 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 nurse in Kansas, according to the Kansas Administrative Procedures Act, K.S.A. 77-501, et seq.

4. Notice of the proceedings 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 violated the Kansas Nurse Practice Act as stated in the Petition, counts I and II.

7. In Count I, Respondent is guilty of unprofessional conduct in that he committed acts beyond the scope of the level of nursing for which he was licensed in Count I, by hanging an IV versed drip without a physician's order in violation of K.S.A. 65-1120(a)(6), as defined by K.A.R. 60-3-110(a).

8. In Count II, Respondent committed acts of professional incompetency in violation of K.S.A. 65-1120(a)(3), as defined by K.S.A. 65-1120(e)(1), failing to adhere to the applicable standard of care to a degree constituting gross negligence, by giving the wrong medication, failing to document the event and failing to notify the patient's physician.

9. 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.

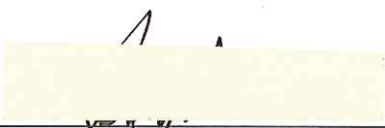
10. Respondent does not appear and is found to be in default in these proceedings.

11. Therefore, Respondent is found to have violated the Nurse Practice Act as stated in the Petition.

ORDER

Based upon the Findings of Fact and Conclusions of Law, **It Is Ordered** that the license issued to George Clark to practice as a licensed practical nurse (LPN) in the State of Kansas is hereby **Revoked**. 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
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 26th day of March, 1996, to:

George Clark
6420 W. 82nd Terrace
Overland Park, Ks. 66204-3927

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