

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE BOARD OF NURSING

In the Matter of the Nursing License
of Vee L. Smith, L.P.N., License No.
43039-5

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
RECOMMENDATION**

The above-entitled matter came on for Prehearing Conference before Administrative Law Judge George A. Beck commencing at 1:30 p.m. on December 15, 2000, at the offices of the Minnesota Board of Nursing, Suite 500, 2829 University Avenue S.E., Minneapolis, Minnesota.

Monte G. Miller, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55103-2131, appeared on behalf of the Minnesota Board of Nursing Review Panel ("Panel"). Vee L. Smith ("Respondent") did not appear at the hearing. The Record closed December 15, 2000 upon the Respondent's failure to appear.

NOTICE

This Report is a recommendation, **not** a final decision. The Executive Director of the Board of Nursing will make the final decision after a review of the record. The Executive Director may adopt, reject or modify the Findings of Fact, Conclusions and Recommendations. Under Minn. Stat. §14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact Shirley A. Brekken, Executive Director, Minnesota Board of Nursing, Suite 500, 2829 University Avenue, S.E., Minneapolis, Minnesota 55414, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this case is whether or not disciplinary action should be taken against the Respondent in accordance with Minn. Stat. §§ 148.261 and 148.262.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On November 9, 2000, a Notice of and Order for Prehearing Conference and hearing in this matter was mailed to the Respondent at her last known address of 1514 Upton Avenue North, Minneapolis, Minnesota 55411. The Notice of and Order for

Prehearing Conference and Hearing scheduled the prehearing conference for December 15, 2000.

2. The Notice of and Order for Prehearing Conference and Hearing that was mailed to the Respondent contained the following statement

If Respondent fails to appear without the advance consent of the Administrative Law Judge at the Prehearing Conference in this matter, Respondent is in default and the allegations or issues in this notice are true without further evidence and the Board may revoke, suspend, and take other action against Respondent's license to practice practical nursing in the State of Minnesota. Respondent is further notified that if disciplinary action is taken against her license, she may be required to pay all costs of proceedings resulting in the action and civil penalty not exceeding \$10,000 for each separate violation.

3. The Respondent did not appear at the December 15, 2000, Prehearing Conference. Respondent did not contact the Board or the Administrative Law Judge to request a continuance. No Notice of Appearance was filed by Respondent in this matter.

4. The allegations set forth in the Notice of and Order for Prehearing Conference, are deemed proved and are incorporated into these Findings by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Minnesota Board of Nursing and the Administrative Law Judge have subject matter jurisdiction herein pursuant to Minn. Stat. §§ 214.10, 214.103 and 14.50.

2. The Respondent was given timely and proper notice of the Prehearing Conference in this matter.

3. The Minnesota Board of Nursing has complied with all relevant substantive and procedural requirements of statute and rule.

4. Under Minn. Rule 1400.6000 the Respondent is in default as a result of her failure to appear at the scheduled Prehearing Conference.

5. Under Minn. Rule 1400.6000 when a party defaults, the allegations and the issues set out in the Notice of and Order for Prehearing Conference and Hearing may be taken as true and deemed proved. The Administrative Law Judge therefore takes those allegations and issues as true and deemed proved.

6. Based upon the facts set out in the Notice of and Order for Prehearing Conference and Hearing, the Respondent has violated Minn. Stat. § 148.261, subd.

1(1), (11) and (23), and Minn. Stat. § 148.265, and is subject to disciplinary action by the Minnesota Board of Nursing.

7. An order by the Board prescribing disciplinary action against the Respondent is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that disciplinary action be taken against the L.P.N. License of Vee L. Smith by the Minnesota Board of Nursing.

Dated this 27th day of December, 2000.

GEORGE A. BECK
Administrative Law Judge

Reported: Default.

NOTICE

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.