

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA BOARD OF NURSING

In the Matter of Grant M. Pierce, R.N.,
License No. 143207-5

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

This matter was scheduled for a Prehearing Conference before Administrative Judge Steve M. Mihalchick at 9:30 a.m. on May 7, 2002 at the Offices of the Board of Nursing, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota 55414. Ruth E. Flynn, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota, 55101-2131, represents the Board. Grant M. Pierce did not appear in person or by counsel. The Notice of and Order for Prehearing Conference and Hearing had been mailed to Mr. Pierce both at his most recent address on file with the Board of Nursing and most recent address on file with the Health Professionals Services Program. The notices had been returned as "box closed, unable to forward," and "moved, left no address." By letter of May 8, 2002, received on May 10, 2002, the Board provided an Affidavit of Service and requested a finding of default. The record was closed on May 10, 2002.

This report is a recommendation, not a final decision. The Minnesota Board of Nursing will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61, the Board shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report and the Board must consider the exceptions in making a final decision. Parties should contact the Board at the address above to learn the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUES

1. Has Mr. Pierce been convicted of a felony or gross misdemeanor reasonably related to the practice of nursing during the previous five years in violation of Minn. Stat. § 148.261, subd. 1(3)?
2. Has disciplinary action been taken against Mr. Pierce's nursing license in another state in violation of Minn. Stat. § 148.261, subd. 1(4)?
3. Has Mr. Pierce demonstrated an actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness,

use of alcohol, drugs, or chemicals, or as a result of any mental or physical condition in violation of Minn. Stat. § 148.261, subd. 1(9)?

4. Has Mr. Pierce engaged in unethical conduct, including conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient in violation of Minn. Stat. § 148.261, subd. 1(11)?

5. Has Mr. Pierce violated a rule adopted by the Board or a state or federal narcotics or controlled substance law in violation of Minn. Stat. § 148.261, subd. 1(18)?

6. Whether Mr. Pierce's conduct constitutes grounds for disciplinary action by the Board?

FINDINGS OF FACT

1. On April 8, 2002, the Notice of and Order for Prehearing Conference and Hearing in this matter was served upon Mr. Pierce at 1334 Washington Avenue, Apartment 5, Detroit Lakes, Minnesota 56501, which is the most recent address he has on file with the Board of Nursing. The Notice was also sent to him at PO Box 476, Barnesville, Minnesota 56514, which is the most recent address he has on file with the Health Professionals Services Program. In June 2001, the Board had referred Mr. Pierce to the Health Professionals Services Program, a chemical dependency treatment program. Mr. Pierce participated in the program briefly during July and August 2001. Both notices were returned as undeliverable and indicated that Mr. Pierce had moved.

2. Minn. Rule 6310.3300, subp. 2 requires a licensee who has changed addresses to notify the Board as soon as possible.

3. On May 7, 2002, Mr. Pierce failed to appear at the prehearing conference.

4. The Notice of an Order for Prehearing Conference and Hearing informed Mr. Pierce that if he failed to appear at the prehearing conference, he would be deemed in default and the allegations or issues in the Notice could be taken as true without further evidence and that the Board could revoke, suspend, or take other action against his license to practice professional nursing in the State of Minnesota.

5. Because Mr. Pierce failed to appear, he is in default.

6. Pursuant to Minn. Rule 1400.6000, the allegations contained in the Notice of an Order Prehearing Conference and Hearing are taken as true and incorporated into these Findings of Fact.

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

CONCLUSIONS

1. The Board of Nursing and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 148.261, and 214.10.

2. The Board has given proper notice of the prehearing conference in this matter and has fulfilled all relevant, substantive and procedural requirements of law and rule. The Notice was properly served by mail upon Mr. Pierce at his last known address provided to the Board. In addition, the Board also attempted to provide notice to him at the address he had provided to the Health Professional Services Program.

3. The facts set out in the Notice of and Order for Prehearing Conference and Hearing constitute violations of Minn. Stat. § 14.261, subd. 1(3), (4), (9), (11), and (18).

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

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that the Board takes disciplinary action against Grant M. Pierce, R.N.

Dated this 4th day of June, 2002.

STEVE M. MIHALCHICK
Administrative Law Judge

Reported: Default

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the Board is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

