

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

In the Matter of Colleen R. Johns,  
R.N. License No. 140282-7,  
L.P.N. License No. 49103-3

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

This matter came on for a Prehearing Conference before Administrative Law Judge Steve M. Mihalchick at 1:30 p.m. on May 27, 2003 at the offices of the Board of Nursing, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota. Ruth E. Flynn, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101-2131, appeared for the Board of Nursing Review Panel. Colleen R. Johns, Licensee, did not appear in person or by counsel, nor has she contacted the administrative law judge to request a continuance of this matter. Licensee's last known address is P.O. Box 625, Red Lake, MN 56671. Based upon Licensee's failure to appear, the Board has requested a Default Recommendation.

**NOTICE**

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 (2002), 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.

If the Board fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Board, or upon the expiration of the deadline for doing so. The Board must notify the parties and the Administrative Law Judge of the date on which the record closes.

## **STATEMENT OF ISSUES**

1. Did Licensee fail to, or did she have the inability to practice nursing with reasonable skill and safety 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)?

2. Did Licensee make a false statement or knowingly provide false information to the Board, fail to make a report to the Board, or fail to cooperate with an investigation of the Board in violation of Minn. Stat. §§ 148.261, subd. 1(23) and 148.265?

3. Is the Board justified in taking disciplinary action against Licensee?

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

## **FINDINGS OF FACT**

1. On April 25, 2003, the Notice of and Order for Prehearing Conference and Hearing in this matter was served by first class mail upon Licensee at her last known address on file with the Board of Nursing. It notified the Licensee of the Prehearing Conference scheduled for May 27, 2003. The Notice was not returned to the Board.

2. The Notice of and Order for Prehearing Conference and Hearing informed Respondent that if she failed to appear at the Prehearing Conference the allegations against her, set forth in the Notice of and Order for Prehearing Conference and Hearing, could be taken as true, and a default order could be issued. She was informed that such an order could result in disciplinary action, including revocation, suspension, or loss of her license.

3. Licensee did not file a Notice of Appearance with the Administrative Law Judge or make any request for a continuance or any other relief. On May 27, 2003, the Licensee failed to appear at the Prehearing Conference, personally or through counsel, or to notify the Board or the Administrative Law Judge that she was unable to appear.

4. Because Licensee failed to appear, she is in default. Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of and Order for Prehearing Conference and Hearing are hereby 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**

1. The Board of Nursing and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 148.261, 214.10 and 214.103, subd.7 (2002).

2. The Board has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. Licensee, having made no appearance at the hearing and not requesting any continuance or relief, is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Prehearing Conference and Hearing are hereby taken as true.

4. Licensee failed to, or did not have the ability to practice nursing with reasonable skill and safety 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).

5. Licensee failed to make a report to the Board, and failed to cooperate with an investigation of the Board in violation of Minn. Stat. §§ 148.261, subd. 1(23) and 148.265.

6. Licensee's conduct constitutes grounds for the Board to take disciplinary action.

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

**RECOMMENDATION**

IT IS HEREBY RECOMMENDED: that the Board take disciplinary action against Licensee Colleen R. Johns, R.N., L.P.N.

Dated this 29th day of May, 2003.

/s/ Steve M. Mihalchick  
STEVE M. MIHALCHICK  
Administrative Law Judge

Reported: Default

**NOTICE**

Pursuant to Minn. Stat. § 14.62, subd. 1 (2002), the Board 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.