

**BEFORE THE BEHAVIORAL SCIENCES REGULATORY BOARD**

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712 S. Kansas Avenue  
Topeka, Kansas 66603-3817

In the Matter )  
 )  
 of )  
 )  
 Dwayne L. Ryans )  
 LBSW # 5530 )  
 Respondent )  
 \_\_\_\_\_ )

Case No. 03-BS-0039

**PROPOSED DEFAULT ORDER**  
**(Pursuant to K.S.A. 77-520)**

Now on this 10<sup>th</sup> day of May, 2004, the above-referenced matter comes on for hearing before the Behavioral Sciences Regulatory Board's designated hearing panel comprised of non-Board member Pat Herrera-Thomas and Board members Anna Silva-Keith and Jody Patterson, assisted by general counsel Camille Nohe, Assistant Attorney General (Legal Opinions and Governmental Counsel Division). Petitioner appears by Marty Snyder, Assistant Attorney General (Civil Litigation Division). Respondent Dwayne L. Ryans does not appear in person or through counsel.

**Procedural History of Case**

On December 8, 2003, a Summary Proceeding Order was issued and served on Respondent at his last known address. This Order suspended indefinitely Respondent's license to practice social work. Respondent was further informed that the Summary Proceeding Order was subject to his request for a hearing if such request was made within 15 days of service.

By way of a letter received in the Board office on December 22, 2003, Respondent timely did request a hearing.

On April 14, 2004, a Notice of Hearing was issued and served on Respondent at his last known address informing him that a hearing had been scheduled for May 10, 2004 at 1:30 p.m. at the Board office.

On this day, and in the absence of Respondent, Petitioner presents evidence in support of affirming the Summary Proceeding Order and further moves to find Respondent in default in accordance with K.S.A. 77-520. Petitioner further requests that Respondent's license to practice social work be indefinitely suspended until such time as Respondent cooperates with the Board's Complaint Review Committee's investigation of a complaint filed against Respondent.

Thereupon, the Hearing Panel having reviewed the Summary Proceeding Order and having heard evidence and arguments presented by Petitioner, makes the following determinations:

**Findings of Fact**

1. On January 23, 2003 the Board received a written complaint concerning Respondent's conduct as a social worker.
2. The information contained in the complaint in part indicated that effective November 1, 2002, Respondent had been terminated from employment as a social worker with Social and Rehabilitation Services (SRS). (Exhibit A)
3. Respondent never informed the Board that he had been terminated from employment as a social worker with SRS.
4. Pursuant to Board procedure, on June 5, 2003, Board Investigator Roger Scurlock sent a letter to Respondent requesting that Respondent "give a complete and accurate account of the circumstances surrounding the events that have led to the

complaint." (Exhibit B) According to this letter, Respondent's response was due by July 8, 2003.

5. Although Respondent submitted various documents (Exhibit C) to the Board office on June 30, 2003, in Mr. Scurlock's opinion these were not responsive to the issues raised by the complaint.

6. Consequently, on August 15, 2003, Mr. Scurlock presented the matter to the Board's Complaint Review Committee for further direction.

7. The Complaint Review Committee directed Mr. Scurlock to send a follow-up letter to Respondent which was done that same day. (Exhibit D) In this letter Mr. Scurlock summarized each of the issues raised by the complaint and requested that Respondent address these issues. Respondent's response was requested by September 15, 2003.

8. When by October 13, 2003 Respondent had not responded to the August 15, 2003 letter, the Complaint Review Committee directed that Mr. Scurlock send a second follow-up letter. This was done on October 13, 2003, and again Mr. Scurlock summarized each of the issues raised by the complaint and requested that Respondent address these issues. A response was requested by November 10, 2003. (Exhibit E)

9. To ensure that Respondent received the second follow-up letter, Mr. Scurlock sent the letter by regular mail and by certified mail to Respondent's last know address, *i.e.*,

10. When the certified letter was returned to the Board office marked "unclaimed," (Exhibit F), Mr. Scurlock verified the address as Respondent's through a U.S. Post Office "Address Verification Request" form. (Exhibit G) He also verified the address through automobile registration information.

11. When by November 17, 2003, Respondent had not responded to the October 13, 2003, second follow-up letter, the Complaint Review Committee directed their disciplinary counsel, Assistant Attorney General Marty Snyder, to prepare a summary proceeding order indefinitely suspending Respondent's social work license. The intent of this action was that Respondent's license be suspended until he provided a meaningful response and information pertinent to the complaint.

12. Disciplinary counsel draft such a Summary Proceeding Order which was signed by Wesley Jones, Chair of the Complaint Review Committee, and issued on December 10, 2003. (Exhibit I)

13. To date Respondent has failed to cooperate with a Board's investigation by failing to respond to the Board's August 15, 2003 letter request and the Board's October 13, 2003 letter request for a meaningful response, information and assistance regarding the January 23, 2003 complaint concerning Respondent's conduct as a social worker.

### **Conclusions of Law**

The following violations of law have been established by clear and convincing evidence, to wit:

(1) violation of K.S.A. 65-6311(a)(4), unprofessional conduct, as defined by K.A.R. 102-2-7(b)(3), failure to notify the Board within a reasonable period of time that the licensee has been terminated from employment for some form of misfeasance, malfeasance or nonfeasance.

(2) violation of K.S.A. 65-6311(a)(4), unprofessional conduct, as defined by K.A.R. 102-2-7(i), failing or refusing to cooperate in a timely manner with any request from the board for a response, information, or assistance with respect to the investigation of any report of alleged violation lodged against the social worker.

### **Policy Reasons for Order**

The Hearing Panel considers the privilege of holding a social worker license to be a matter of public trust, one that requires a licensee to respect Board requirements that have been lawfully adopted in regulations. In order to protect the public from unprofessional or incompetent practitioners, licensed social workers are required to inform the Board if he or she is terminated from employment. The Board, through its Complaint Review Committee and/or Hearing Panel, may then determine whether the social worker's conduct that gave rise to the termination, warrants disciplinary action in order to protect the public. Additionally, in order to meaningfully evaluate a complaint, licensees are required by regulation to assist the Board in any investigation, including an investigation when the social worker is the subject of the investigation. The purpose of this rule is to assure the cooperation of social workers while the Board is investigating the substance of the complaint, whether the complaint has been filed against another social worker or oneself.

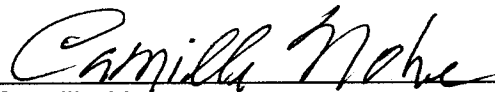
### **ORDER**

IT IS THEREFORE ORDERED that Respondent's license to practice social work, LSCSW # 5530, be and hereby is suspended for 90 days from the effective date of this Proposed Default Order as indicated in the below Notice Regarding Relief from This Order.

IT IS FURTHER ORDERED that a motion to lift the suspension imposed herein will be favorably entertained upon Respondent's cooperation with the Board's Complaint Review Committee by providing a relevant response, information or assistance with respect to that Committee's investigation of the complaint filed against Respondent.

IT IS FURTHER ORDERED that if Respondent fails to cooperate with the Board's Complaint Review Committee within 90 days from the effective date of this Proposed Default Order, as indicated in the below Notice Regarding Relief from This Order, that Respondent's license to practice social work, LBSW # 5530, shall be revoked without further order or proceedings.

IT IS SO ORDERED.



Camille Nohe  
Assistant Attorney General/ General Counsel to  
the Hearing Panel  
On behalf of and as authorized by the Hearing  
Panel

**Notice Regarding Relief from This Order**

This is a Proposed Default Order issued pursuant to K.S.A: 77-520. It becomes effective without further notice or proceedings unless vacated by the Hearing Panel. Within seven days of the date indicated in the below Certificate of Service, a party may file a written motion requesting that the Proposed Default Order be vacated and stating the grounds or reasons relied upon. Filing a motion does not, by itself, vacate this Proposed Default Order.

**Certificate of Service**

This is to certify that on the 19<sup>th</sup> day May 2004, a true and correct copy of the above PROPOSED DEFAULT ORDER was deposited in the U.S. mail, first class postage prepaid, addressed to:

Dwayne L. Ryans



and a copy placed in inter-office mail addressed to:

Marty Snyder  
Assistant Attorney General  
Civil Litigation Division  
Office of the Attorney General  
Memorial Building, 3<sup>rd</sup> Floor  
120 W. 10th Street  
Topeka, Kansas 66612

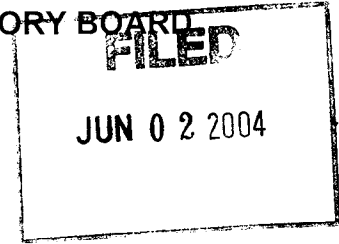
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Camille Nohe  
Assistant Attorney General/General Counsel to  
the Hearing Panel  
On behalf of and as authorized by the Hearing  
Panel

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BEFORE THE BEHAVIORAL SCIENCES REGULATORY BOARD

712 S. Kansas Avenue  
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In the Matter )  
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 Dwayne L. Ryans )  
 LBSW # 5530 )  
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Case No. 03-BS-0039

**FINAL DEFAULT ORDER**

Now on this 2<sup>nd</sup> day of June 2004, the above-referenced matter comes on for further proceedings following issuance of a Proposed Default Order.

The Hearing Panel takes notice that on May 19, 2004, a Proposed Default Order was issued and that Respondent did not file a motion to vacate the Proposed Default Order within seven days of service of the Proposed Default Order plus three days mailing time pursuant to K.S.A. 77-531 plus the two weekend days plus Memorial Day (May 31). The Hearing Panel thus finds that the Proposed Default Order has become effective, and the Findings of Fact and Conclusions of Law contained therein are finally determined as set forth in the Proposed Default Order.

IT IS THEREFORE ORDERED that Respondent's license to practice social work, LSCSW # 5530, be and hereby is suspended for 90 days from the effective date of the Proposed Default Order, *to wit*, June 1, 2004.

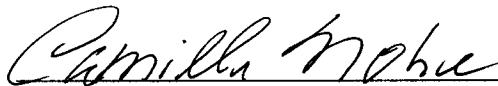
IT IS FURTHER ORDERED that a motion to lift the suspension imposed herein will be favorably entertained upon Respondent's cooperation with the Board's Complaint Review Committee by providing a relevant response, information or assistance with



respect to that Committee's investigation of the complaint filed against Respondent.

IT IS FURTHER ORDERED that if Respondent fails to cooperate with the Board's Complaint Review Committee within 90 days from the effective date of the Proposed Default Order that Respondent's license to practice social work, LBSW # 5530, shall be revoked without further order or proceedings.

IT IS SO ORDERED.



Camille Nohe

Assistant Attorney General/ General Counsel to  
the Hearing Panel

On behalf of and as authorized by the Hearing  
Panel

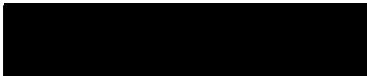
**Notice of Relief from Final Order**

This is a Final Order. It is effective upon the date indicated in the below Certificate of Service unless a stay is granted pursuant to K.S.A. 77-528. Within 15 days after service of the Final Order, any party may file a Petition for Reconsideration with the Behavioral Sciences Regulatory Board. Such petition must state the specific grounds upon which relief is requested. The filing of a Petition for Reconsideration is not a prerequisite for seeking judicial review. Judicial review may be had by filing a Petition for Judicial Review with the appropriate district court as provided in the Kansas Act for Judicial Review, K.S.A. 77-601 *et seq.* The agency officer who may receive service of a Petition for Judicial Review is Phyllis Gilmore, Executive Director, Behavioral Sciences Regulatory Board.

**Certificate of Service**

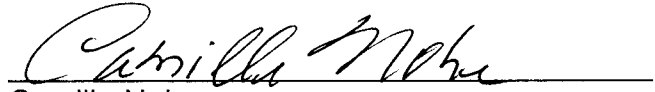
This is to certify that on the 2<sup>nd</sup> day of June 2004, a true and correct copy of the above FINAL ORDER was deposited in the U.S. mail addressed to:

Dwayne L. Ryans



and a copy deposited in inter-office mail addressed to:

Marty Snyder  
Civil Litigation Division  
Office of the Attorney General  
Memorial Building, 3<sup>rd</sup> Floor  
120 SW 10th Avenue  
Topeka, Kansas 66612

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Camille Nohe  
Assistant Attorney General/ General Counsel to  
the Hearing Panel  
On behalf of and as authorized by the Hearing  
Panel