

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 137428
ISSUED TO
DARESA DEE ANN ROHLOFF

§
§
§
§
§
§
§
§

BEFORE THE ELIGIBILITY
AND DISCIPLINARY
COMMITTEE
OF THE TEXAS
BOARD OF NURSING

ORDER OF THE BOARD

TO: Daresa Dee Ann Rohloff
9624 Constellation Blvd., Apt. 8303
Ft. Worth, Texas 76108

During open meeting held in Austin, Texas, on Tuesday, May 8, 2012, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee of the Texas Board of Nursing finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license to practice vocational nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the

proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing [22 TEX. ADMIN.CODE § 213.16(j)]. All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

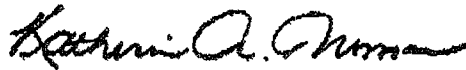
NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 137428, previously issued to DARESA DEE ANN ROHLOFF, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice vocational nursing in the State of Texas.

Entered this 8th day of May, 2012.

TEXAS BOARD OF NURSING

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Attachment: Formal Charge filed February 29, 2012.



Re: Permanent Certificate Number 137428
Issued to DARESA DEE ANN ROHLOFF
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of May, 2012, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

Daresa Dee Ann Rohloff
9624 Constellation Blvd., Apt. 8303
Ft. Worth, Texas 76108

BY:



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of Permanent License § BEFORE THE TEXAS
Number 137428, Issued to §
DARESA DEE ANN ROHLOFF, Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, DARESA DEE ANN ROHLOFF, is a Vocational Nurse holding license number 137428, which is in delinquent status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about April 14, 2011, Respondent's license to practice vocational nursing in the State of Nebraska was revoked by the Nebraska Department of Health and Human Services Division of Public Health, State of Nebraska. A copy of the April 14, 2011 Findings of Fact, Conclusions of Law and Order is attached and incorporated by reference as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to, and including, revocation of Respondent's license/s to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.texas.gov.

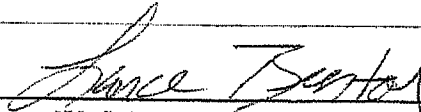
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses which can be found at the Board's website, www.bon.texas.gov.

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.texas.gov/disciplinaryaction/discp-matrix.html.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: State of Nebraska Findings of Fact, Conclusions of Law and Order dated April 14, 2011.

Filed this 29th day of February, 2012.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Abel, Assistant General Counsel
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel
State Bar No. 24066924

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel
State Bar No. 24052269

John F. Legris, Assistant General Counsel
State Bar No. 00785533

TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6824
F: (512) 305-8101 or (512)305-7401

Attachments: State of Nebraska Findings of Fact, Conclusions of Law and Order dated April 14, 2011

D/2011.09.23

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

STATE OF NEBRASKA ex rel.,
JON BRUNING, Attorney General,

Plaintiff,

v.

DARESA ROHLOFF, L.P.N.,

Defendant.

11-83

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER

On January 12, 2011, the State filed a Petition for Disciplinary Action against Daresa Rohloff (Defendant). A hearing on the allegations contained in that petition was held on April 6, 2011. At that hearing, the State was represented by Assistant Attorney General Lisa Anderson. Defendant appeared pro se.

SUMMARY OF THE HEARING

At the hearing, testimony was taken from Janeen Berg, Department of Health and Human Services Investigator, and Defendant. In addition to the testimony, eight (8) exhibits were offered and received.

FINDINGS OF FACT

1. Jurisdiction is based on Neb. Rev. Stat. §§ 38-176, 38-186 and 38-196 (Reissue 2008).
2. At all times relevant, Defendant has been the holder of practical nursing license #22458 issued November 3, 2009 by the Nebraska Department of Health and Human Services Division of Public Health (Department).
3. The Department is the agency of the State of Nebraska authorized to enforce the provisions of the Uniform Credentialing Act regulating the practice of nursing in Nebraska. The Nurse Licensure Compact authorizes the Department to discipline the multistate nurse licensure privilege of the Defendant to practice in the State of Nebraska.
4. The Nebraska Board of Nursing considered the investigation of this matter and made a recommendation to the Attorney General, which recommendation has been considered.

5. From March 1, 2010 until August 17, 2010, Defendant was employed by Elite Professionals Home Care Company, Lincoln, Nebraska (Elite).

6. During July 2010, Elite was notified by one of Defendant's home health clients that the client had recently had his hydrocodone prescription refilled with 90 tablets and within three days half of his tablets were gone.

7. On July 15, 2010, Elite set up a narcotic count sheet for the patient and began counting the client's hydrocodone tablets.

8. From August 6, 2010 to August 9, 2010, the count went from 54 tablets to 43 tablets. The client had taken two tablets. (Ex. 1 and 5).

9. On August 13, 2010 at 1045, the client's case manager counted his hydrocodone and he was down seven (7) tablets from August 12, 2010 (count went from 37 to 30). The client told his case manager that he had only taken one of the pills since the case manager had counted the pills on the day before. (Ex. 1, 4 and 5).

10. On August 13, 2010, after the case manager confirmed the count at 30 tablets, she went to her car and waited until Defendant visited the client. Defendant came to the client's home at approximately 1200. The client knew that Elite suspected Defendant, so he went to the bathroom to allow time for Defendant to possibly take the hydrocodone. At approximately 1230, Defendant left the client's home and the case manager returned and counted the hydrocodone. There were six (6) tablets missing. The client did not take any hydrocodone between the two counts and Defendant was the only other person in his home between the two counts. (T: 14-15 and Ex. 1, 5 and 6).

11. On August 17, 2010, Elite terminated Defendant for stealing the client's hydrocodone. Defendant failed to report her termination to the Department. (Ex. 7).

12. On November 12, 2010, Defendant was charged with Intentional Violation of Narcotic Drug Law (Class IV Felony) in Lancaster County, Nebraska.

13. Defendant testified and denied that she stole the hydrocodone from the client. She stated that there was a home health aide at the client's home while Defendant was there on August 13, 2010. The client's case manager stated to the Department Investigator that the home health aide had already left the client's home when the case manager performed the initial hydrocodone count at 1045.

CONCLUSIONS OF LAW

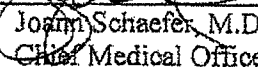
The State proved by clear and convincing evidence that Defendant failed to report her termination from Elite to the Department. Her failure to report her termination is grounds for discipline. Neb. Rev. Stat. §§ 38-178(18) and 38-1,125(1)(c)(ii) (Reissue 2008).

The State proved by clear and convincing evidence that Defendant stole 6 tablets of hydrocodone from a home health client. Defendant's theft of hydrocodone from a home health client constitutes unprofessional conduct and is grounds for discipline. Neb. Rev. Stat. §§ 38-178(23) and 38-179(15) (Reissue 2008). 172 NAC 101-007.03(9).

ORDER

Defendant's license to practice as a licensed practical nurse in the State of Nebraska is revoked effective ten (10) days from the date of this order. Defendant's privilege to practice nursing in the State of Nebraska pursuant to the Nurse Licensure Compact is also revoked the same date.

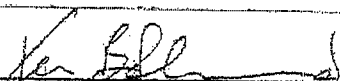
DATED this 14 day of April, 2011.



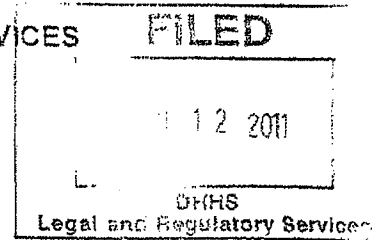
Joann Schaefer, M.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 14th day of April, 2011, a copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** was sent by certified United States mail, postage prepaid, return receipt requested, to **Daresa Rohloff, 1845 S. 52^d Street, Lincoln, NE 68506** and by interagency mail to **Lisa K. Anderson, Assistant Attorney General, 2115 State Capitol, Lincoln, Nebraska.**


Keith B. Roland
DHHS Legal Services
P.O. Box 98914
Lincoln NE 68509-8914
P. (402) 471-7237 F. (402) 742-2376

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA



STATE OF NEBRASKA ex rel. JON)
BRUNING, Attorney General,)

Plaintiff,)

PETITION FOR DISCIPLINARY
ACTION

v.

DARESA ROHLOFF, L.P.N.,)

Defendant.)

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION:

The Plaintiff alleges as follows:

1. Jurisdiction is based on Neb. Rev. Stat. §§ 38-176 and 38-186 (Reissue 2008).
2. At all times relevant herein, the Defendant, Daresa Rohloff, L.P.N., has been the holder of a practical nursing license (#22458) issued by the Department of Health and Human Services Division of Public Health ("Department").
3. The Department is the agency in the State of Nebraska authorized to enforce the provisions of the Uniform Credentialing Act regulating the practice of nursing.
4. The Nurse Licensure Compact authorizes the Department to discipline the multistate nurse licensure privilege of the Defendant to practice in the State of Nebraska in accordance with Neb. Rev. Stat. § 38-196 (Reissue 2008).
5. The Nebraska Board of Nursing considered the investigation of this matter and made a disciplinary recommendation to the Attorney General, which

recommendation has been considered. Such matters are privileged pursuant to Neb. Rev. Stat. § 38-1,105 (Reissue 2008).

6. At all times relevant herein, the Defendant provided home health nursing services through E.P.

7. In July of 2010, an E.P. home health client reported he was missing hydrocodone tablets from his personal prescription.

8. In August of 2010, the E.P. began counting the client's hydrocodone and compiled the following information:

- a. 8/6 – 8/9: Count went from 54 to 43 Client took 2 tabs
- b. 8/12: Count went from 37 to 30 7 tabs missing
(Defendant only
nurse in home during this
time)

9. On August 13, 2010, at approximately 1045, the client's case manager, J.J., R.N., counted the client's hydrocodone. There were 30 tablets. J.J. then left the house and waited in her vehicle outside. J.J. observed the Defendant arrive and enter the house. At approximately 1230, the Defendant exited the house. J.J. returned to count the hydrocodone. There were 24 tablets. The client did not consume any hydrocodone between the two counts performed by J.J.

10. The Defendant denies stealing hydrocodone from the client. She informed a Department investigator that there was a home health aide present in the client's home on August 13, 2010, when she was performing the client's wound care. The Defendant reported the aide picked up the client's wife to take her shopping.

11. J.J. informed a Department investigator that the aide and the client's wife had already left the residence when J.J. performed the initial hydrocodone count.

12. On August 17, 2010, the Defendant was terminated by E.P. for stealing the client's hydrocodone. The Defendant failed to report her termination to the Department.

13. On November 12, 2010, the Defendant was charged with Intentional Violation of Narcotic Drug Law (Class IV Felony) in Lancaster County, Nebraska.

FIRST CAUSE OF ACTION

14. Paragraphs 1 through 13 are incorporated herein by reference.

15. Neb. Rev. Stat. § 38-178(18) (Reissue 2008) provides that a professional license may be disciplined for failure to file a report as required by section 38-1, 125.

16. Neb. Rev. Stat. § 38-1, 125(1)(c)(ii) (Reissue 2008) requires licensed health professionals to report any loss of employment for alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental or chemical impairment to the Department within thirty (30) days.

17. The Defendant's failure to report her termination from E.P. to the Department is grounds for discipline.

SECOND CAUSE OF ACTION

18. Paragraphs 1 through 17 are incorporated herein by reference.

19. Neb. Rev. Stat. § 38-178(23) (Reissue 2008) provides that a professional license may be disciplined for unprofessional conduct as defined in section 38-179.

20. Neb. Rev. Stat. § 38-179 (Reissue 2008) defines unprofessional conduct as "...any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, or conduct that is likely to deceive or defraud

the public of is detrimental to the public interest, including, but not limited to...(15) such other acts as may be defined in rules and regulations."

21. Title 172 NAC 101-007.03 of the Regulations Governing the Practice of Nursing defines unprofessional conduct as:

(9) Misappropriating medications, supplies or personal items of a patient or agency.

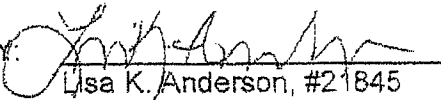
22. The Defendant's theft of hydrocodone from a home health client constitutes unprofessional conduct and is grounds for discipline.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that the Chief Medical Officer set this matter for hearing, order appropriate disciplinary action pursuant to Neb. Rev. Stat. § 38-196 (Reissue 2008) and tax the costs of this action to the Defendant.

STATE OF NEBRASKA ex rel. JON
BRUNING, Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: 
Lisa K. Anderson, #21845
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
(402) 471-4593

Attorneys for Plaintiff.