



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Patricia Williams
Executive Director of the Board

DOCKET NUMBER 507-12-3384

**IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 191396
ISSUED TO
SERGIO CHAPARRO**

**§ BEFORE THE STATE OFFICE
§
§ OF
§
§ ADMINISTRATIVE HEARINGS**

OPINION AND ORDER OF THE BOARD

**TO: SERGIO CHAPARRO
3417 CREST ELM DR
CORPUS CHRISTI, TX 78415**

**RICHARD WILFONG
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701**

At the regularly scheduled public meeting on July 19-20, 2012, the Texas Board of Nursing (Board) considered the following items: (1) The Proposal for Decision (PFD) regarding the above cited matter; (2) Staff's recommendation that the Board adopt all of the Findings of Fact and Conclusions of Law in the PFD regarding the vocational nursing license of Sergio Chaparro without changes; and (3) Respondent's recommendation to the Board regarding the PFD and order, if any.

The Board finds that after proper and timely notice was given, the above styled case was heard by an Administrative Law Judge (ALJ) who made and filed a PFD containing the ALJ's findings of facts and conclusions of law. The PFD was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein. No exceptions were filed by any party.

The Board, after review and due consideration of the PFD, Staff's recommendations, and the presentation by the Respondent during the open meeting, if any, adopts all of the findings of fact and conclusions of law of the ALJ contained in the PFD as if fully set out and separately stated herein. All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

Sanction

The Board finds that Respondent's conduct, as described in the adopted Findings of Fact and Conclusions of Law, poses a serious risk to the public health and safety. The Respondent's history, as described in the Board's February 19, 2007 Order, and incorporated into adopted Finding of Fact Number 8, indicates a potential risk of impaired nursing care due to the Respondent's psychiatric condition and/or the intemperate use of controlled substances or chemical dependency. The Respondent's failure to comply with the requirements of the February 19, 2007 Board Order, including abstaining from controlled substances and submitting to random drug screening, as is described in adopted Findings of Fact Numbers 6 through 10, further indicates a continuing risk to the public

health and safety. Further, Respondent's intemperate use of an illegal substance, as described in adopted Finding of Fact Number 7, also indicates a continuing risk to the public health and safety. Based upon the adopted Findings of Fact and Conclusions of Law, including Findings of Fact Numbers 5 through 10 and Conclusion of Law Number 6, the Board's Disciplinary Matrix, and the Board's rules, including 22 Tex. Admin. Code §213.29 and §213.33(g) and (m), the Board finds that the Respondent's license should be revoked.

IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 191396, previously issued to SERGIO CHAPARRO, to practice 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 multi-state privileges, if any, to practice nursing in the State of Texas.

Entered this 19th day of July, 2012.

TEXAS BOARD OF NURSING



KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR FOR THE BOARD

Attachment: Proposal for Decision; Docket No. 507-12-3384 (March 30, 2012).

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

March 30, 2012

Katherine A. Thomas, M.N., R.N.
Executive Director
Texas Board of Nursing
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701

VIA INTER-AGENCY

RE: Docket No. 507-12-3384; In the Matter of Permanent Certificate
No. 191396 Issued to Sergio Chaparro

Dear Ms. Thomas:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard R. Wilfong".
Richard R. Wilfong
Administrative Law Judge

RRW/lis
Enclosures

xc: R. Kyle Hensley, Assistant General Counsel, Texas Board of Nursing, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 – VIA INTER-AGENCY
Dina Flores, Legal Assistant Texas Board of Nursing, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 – (with 1 - CD; Certified Evidentiary Record) – VIA INTER-AGENCY
Sergio Chaparro, 3417 Crest Elm Drive, Corpus Christi, TX 78415 - VIA REGULAR MAIL

300 W. 15th Street, Suite 502, Austin, Texas 78701 / P.O. Box 13025, Austin, Texas 78711-3025
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SOAH DOCKET NO. 507-12-3384

IN THE MATTER OF PERMANENT	§	BEFORE THE STATE OFFICE
	§	
CERTIFICATE NO. 191396 ISSUED TO	§	OF
	§	
SERGIO CHAPARRO	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas Board of Nursing (Staff/Board) brought action against Sergio Chaparro (Respondent), seeking to revoke Respondent's license to practice as a vocational nurse in the State of Texas. The Administrative Law Judge (ALJ) recommends that Respondent's license to practice as a vocational nurse in the State of Texas be revoked.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The hearing convened on March 27, 2012, before ALJ Richard R. Wilfong in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff was represented by R. Kyle Hensley, Assistant General Counsel, who moved for a default based on the failure of Respondent to appear.

Staff offered competent evidence establishing jurisdiction and that appropriate notice of the hearing was provided to Respondent. Those matters are set out in the Findings of Fact and Conclusions of Law.

II. RECOMMENDATION

Based upon the following Findings of Fact and Conclusions of Law and in accordance with 1 TEX. ADMIN. CODE § 155.501, the ALJ granted Staff's motion for default and accordingly, the factual allegations in Staff's Notice of Hearing are deemed admitted. Based on the admitted facts and applicable law, the ALJ recommends that Respondent's license to practice as a vocational nurse in the State of Texas be revoked.

III. FINDINGS OF FACT

1. Sergio Chaparro (Respondent) is licensed as a vocational nurse and holds License No. 191396 issued by the State of Texas.
2. On December 15, 2011, Staff mailed its Notice of Hearing to Respondent's last known address of record at 3417 Crest Elm Drive, Corpus Christi, Texas 78415, by United States Post Office certified mail. The certified mail was claimed by Respondent.
3. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
4. The notice of hearing contained the following language in capital letters in at least 12-point boldface type: "FAILURE TO APPEAR AT THE HEARING IN PERSON OR BY LEGAL REPRESENTATIVE, REGARDLESS OF WHETHER AN APPEARANCE HAS BEEN ENTERED, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT."
5. Respondent did not appear and was not represented at the hearing, and the factual allegations set forth in the Notice of Hearing were deemed admitted pursuant to 1 TEX. ADMIN. CODE § 155.501.
6. On July 25, 2008, Respondent engaged in the intemperate use of Benzodiazepines in that he produced a specimen for a drug screen which tested positive for Benzodiazepines.
7. On July 30, 2008, Respondent engaged in intemperate use of Cannabinoid in that he produced a specimen for a drug screen which resulted positive for Cannabinoid.
8. On July 25, 2008, Respondent failed to comply with the Agreed Order issued to him by the Texas Board of Nursing on February 19, 2007. Respondent's non-compliance was the result of his failure to comply with Stipulation Number Nine (9) of the Agreed Order, which reads in pertinent part:

 "(9) Respondent shall abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances contract during its term."

9. On July 14, 2008, and August 7, 2008, Respondent failed to comply with the Agreed Order issued to him by the Texas Board of Nursing on February 19, 2007. Respondent's non-compliance was the result of his failure to comply with Stipulation Number Ten (10) of the Agreed Order, which reads in pertinent part:

"(10) Respondent shall submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol."

10. On February 20, 2008, Respondent failed to comply with the Agreed Order issued to him by the Texas Board of Nursing on February 19, 2007. Respondent's non-compliance was the result of his failure to comply with Stipulation Number Four (4) of the Agreed Order, which reads in pertinent part:

"(4) Respondent shall within one (1) year of this Order, Successfully complete a course in nursing ethics."

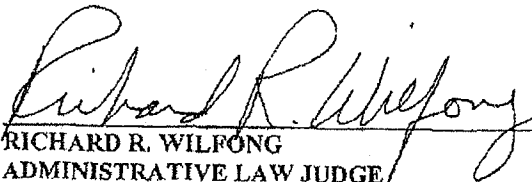
IV. CONCLUSIONS OF LAW

1. The Texas Board of Nursing (Board) has jurisdiction over this matter pursuant to TEX. OCC. CODE (Code) ch. 301.
2. The State Office of Administrative Hearings has jurisdiction over the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ch. 2003.
3. Notice of the formal charges and of the hearing on the merits was provided as required by Code § 301.454 and by the Administrative Procedure Act, TEX. GOV'T CODE §§ 2001.051 and 2001.052.
4. Staff of the Board had the burden of proving the case by a preponderance of the evidence.
5. Because of Respondent's failure to appear at the hearing, Staff's factual allegations in the Notice of Hearing are deemed admitted, and Staff met its burden of proof pursuant to 1 TEX. ADMIN. CODE (TAC) § 155.501.
6. Based on the forgoing Findings of Fact, Respondent violated Code § 301.452(b)(1), (9) and (10) and 22 TAC § 217.12(10)(A) & (D) and (11)(B).

V. RECOMMENDATION

Based upon the forgoing Findings of Fact and Conclusions of Law, the ALJ recommends that the Board revoke Respondent's license to practice as a vocational nurse in the State of Texas.

SIGNED March 30, 2012.

A handwritten signature in cursive script, reading "Richard R. Wilfong", is written over a horizontal line.

RICHARD R. WILFONG
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS