



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 R. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse § AGREED
License Number 441072 §
issued to BONICCI GAIL DRISKILL § ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 441072, issued to BONICCI GAIL DRISKILL, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c), Texas Occupations Code.

Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received an Associate Degree in Nursing from Cameron University School of Nursing, Lawton, Oklahoma on May 17, 1977. Respondent was licensed to practice professional nursing in the State of Texas on November 1, 1977.
5. Respondent's complete professional employment history is unknown.

6. On or about August 24, 2005, Respondent submitted a renewal application to the Board of Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information, in that she answered "no" to the following question:

"Have you been convicted, adjudged guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrest (excluding minor traffic violations) since the last renewal? This includes expunged offenses and deferred adjudications with or without prejudice of guilt. Please note that DUI's, DWI's, PI's must be reported and are not considered minor traffic violations. (One time minor in possession [MIP] or minor in consumption [MIC] do not need to be disclosed, therefore, you may answer "No". If you have two or more MIP's or MIC's, you must answer "Yes".) "

Respondent failed to disclose the following:

On or about January 5, 1984, Respondent was convicted of Theft over \$20.00 and less than \$200.00 in the Dallas County Court at Law and received twelve (12) months probation and a fine.

On or about November 24, 2003, Respondent was arrested by the Glenn Heights Police Department, Glenn Heights, Texas and charged with Driving While Intoxicated. On or about March 29, 2004, Respondent entered a plea of No Contest in County Court at Law No. 2, Waxahachie, Texas, Cause No. 0410045CR, and received a sentence of 180 days in jail, suspended, and two (2) years probation with a fine and court costs.

On or about March 30, 2004, Respondent was arrested by the Plano Police Department, Plano, Texas and charged with Driving While Intoxicated. On or about February 18, 2005, Respondent entered a plea of guilty in County Court at Law No. 5, McKinney, Texas, Cause No. 005-82132-04, and received a sentence of confinement for one (1) year, Probation for two (2) years, and a fine and court costs.

7. On or about August 30, 2007, Respondent submitted a renewal application to the Board of Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information, in that she answered "no" to the following question:

"Have you ever been convicted, placed on community supervision whether or not adjudicated guilty, sentenced to serve jail or prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, or received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests whether or not on appeal (excluding minor Class C traffic violations)? This includes expunged offenses and deferred adjudications with or without a finding of guilt. Please note that DUI's, DWI's, and PIs must be reported and are not considered minor traffic violations. One time minor in possession [MIP] or minor in consumption [MIC] does not need to be disclosed; therefore, you may answer "No." If you have two or more MIPs or MICs, you must answer "Yes." You may answer "No" if you have previously disclosed a criminal matter otherwise responsive to this question in a renewal

and/or licensure form.”

Respondent failed to disclose the following:

On or about January 5, 1984, Respondent was convicted of Theft over \$20.00 and less than \$200.00 in the Dallas County Court at Law and received twelve (12) months probation and a fine.

On or about November 24, 2003, Respondent was arrested by the Glenn Heights Police Department, Glenn Heights, Texas and charged with Driving While Intoxicated. On or about March 29, 2004, Respondent entered a plea of No Contest in County Court at Law No. 2, Waxahachie, Texas, Cause No. 0410045CR, and received a sentence of 180 days in jail, suspended, and two (2) years probation with a fine and court costs.

On or about March 30, 2004, Respondent was arrested by the Plano Police Department, Plano, Texas and charged with Driving While Intoxicated. On or about February 18, 2005, Respondent entered a plea of guilty in County Court at Law No. 5, McKinney, Texas, Cause No. 005-82132-04, and received a sentence of confinement for one (1) year, Probation for two (2) years, and a fine and court costs.

On or about April 8, 2007, Respondent was arrested by the Collin County Sheriff's Office, Collin County, Texas and charged with Driving while Intoxicated 3rd. On or about June 3, 2008, Respondent was convicted of Driving While Intoxicated, 3rd degree felony, in 380th District Court, Collin County, McKinney, Texas, Cause No. 380-81782-07 and was sentenced to five (5) years in the Collin County Community Correctional Department with a fine and court costs and with the sentence of confinement suspended and placed on community supervision for eight (8) years.

8. On or about August 6, 2009, Respondent submitted a renewal application to the Board of Nurse Examiners for the State of Texas in which Respondent provided false, deceptive, and/or misleading information, in that she answered “no” to the following questions:

“Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

A. been convicted of a misdemeanor?

H. been arrested or have any pending criminal charges?

I. been cited or charged with any violation of the law?”

“Has any licensing authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, suspended, placed on probation, refused to renew a nursing license, certificate, or multi-state privilege held by you now or previously, or ever fined, censured, reprimanded, or otherwise disciplined you?”

Respondent failed to disclose the following:

On or about January 14, 2009, Respondent was convicted of Operating a Motor Vehicle under the influence of Alcohol, a Misdemeanor, in the Lyon County District Court, Case # 09-M-000010, Lyon County, Kentucky.

On or about January 26, 2009, Respondent was convicted of the offense of Driving On DUI Suspended License, a Misdemeanor, in McCracken County District Court, Case # 09-T-00589, McCracken County, Kentucky.

On or about June 18, 2009, while utilizing Respondent's multistate licensure compact privilege associated with her license to practice professional nursing in the State of Texas, Respondent was issued an Immediate Temporary Suspension of her privilege to practice professional nursing in the Commonwealth of Kentucky.

9. On or about August 1, 2011, Respondent submitted a renewal application to the Board of Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information, in that she answered "no" to the following question:

"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

- A. been convicted of a misdemeanor?
- B. been convicted of a felony?
- C. pled nolo contendere, no contest, or guilty?
- D. received deferred adjudication?
- E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
- F. been sentenced to serve jail or prison time? court-ordered confinement?
- G. been granted pre-trial diversion?
- H. been arrested or have any pending criminal charges?
- I. been cited or charged with any violation of the law?
- J. been subject of a court-martial; Article 15 violation; or received any form of military judgement/punishment/action?"

Respondent failed to disclose the following:

On or about October 22, 2009, Respondent plead guilty to Probation Revocation in 380th District Court, Collin County, Texas, Cause No. 380-81782-07 and was sentenced to confinement in the Texas Department of Corrections for a period of two (2) years with a fine and court costs. On or about December 23, 2009, Respondent was received at the Texas Department of Corrections, Huntsville, Byrd Unit and was confined until on or about April 28, 2010, at which time she received a mandatory release and assigned to the Texas Pardon and Parole Board Austin, Austin, Texas until March 27, 2011.

On or about September 15, 2010, Respondent was arrested by the Greenville Police Department and charged with Assault Causes Bodily Injury Family Member a Class A Misdemeanor. Respondent's conduct was deceiving and may have affected the Board's

decision to renew her license.

10. On or about April 6, 2009, while utilizing Respondent's Privilege to Practice from Texas Registered Nurse License Number 441072 and employed with Paducah Care & Rehabilitation Center, Paducah, Kentucky, Respondent lacked fitness to practice professional nursing in that she was observed with dilated pupils, slurred speech and with a strong odor of alcohol on her breath. Respondent produced a breath test that indicated a positive result for alcohol with a 0.237% and a .224 BAC that was confirmed as positive for alcohol. As a result of Respondent's conduct on or about April 6, 2009, Respondent was issued an Immediate Temporary Suspension of her privilege to practice professional nursing in the Commonwealth of Kentucky on or about June 18, 2009. Further, on or about February 11, 2011, Respondent received a Decision, Findings of Fact, Conclusions of Law and Order from the Kentucky State Board of Nursing wherein Respondent's multistate licensure compact privilege associated with her license to practice professional nursing in the State of Texas was Suspended for at least five (5) years in the State of Kentucky. A copy of the Immediate Temporary Suspension issued by the Kentucky State Board of Nursing dated June 18, 2009 and the Decision, Findings of Fact, Conclusions of Law and Order from the Kentucky State Board of Nursing dated February 11, 2011 are attached and incorporated as a part of these charges.
11. On or about October 22, 2009, Respondent plead guilty to Probation Revocation in 380th District Court, Collin County, Texas, Cause No. 380-81782-07 and was sentenced to confinement in the Texas Department of Corrections for a period of two (2) years with fine and court cost. Sentences to run concurrently. On or about December 23, 2009, Respondent was received at the Texas Department of Corrections, Huntsville, Byrd Unit and was confined until on or about April 28, 2010, at which time she received a mandatory release and assigned to the Texas Pardon and Parole Board Austin, Austin, Texas until March 27, 2011.
12. Charges were filed on August 12, 2011. First Amended Formal Charges were filed on January 5, 2012.
13. Charges were mailed to Respondent on August 15, 2011. First Amended Formal Charges were mailed to Respondent on January 5, 2012.
14. Respondent, by her signature to this Order, expresses her desire to voluntarily surrender her license(s) to practice nursing in the State of Texas.
15. The Board policy implementing Rule 213.29 in effect on the date of this Agreed Order provides discretion by the Executive Director for consideration of conditional reinstatement after proof of twelve (12) consecutive months of abstinence from alcohol and drugs followed by licensure limitations/stipulations and/or peer assistance program participation.
16. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violation of Section 301.452(b)(2), (8) & (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(6)(H), (6)(I) & (13). Moreover, the above offense described in Finding of Fact Number Eleven (11) mandates revocation of Respondent's license to practice nursing in accordance with Chapter 53.021(b) of the Texas Occupations Code.
4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code and Chapter 53.021(b) of the Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 441072, heretofore issued to BONICCI GAIL DRISKILL, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of Registered Nurse License Number 441072, heretofore issued to BONICCI GAIL DRISKILL, to practice nursing in the State of Texas, is accepted by the Texas Board of Nursing.

In connection with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying herself as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: at least one year has elapsed from the date of this Order; and RESPONDENT

has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.

3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

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

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order.

I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

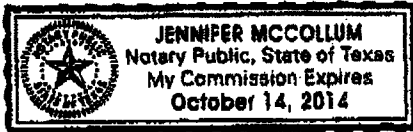
Signed this 4th day of February, 2012.

Bonici Gail Driskill
BONICCI GAIL DRISKILL, Respondent

Sworn to and subscribed before me this 4th day of February, 2012.

SEAL

Jennifer McCollum
Notary Public in and for the State of Texas

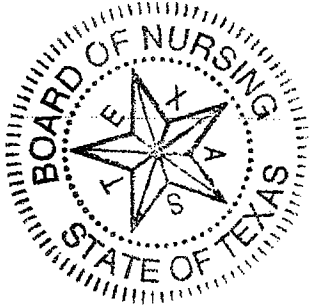


Approved as to form and substance.

Susan Henricks
Susan Henricks, Attorney for Respondent

Signed this 7 day of February, 2012.

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby accept the voluntary surrender of Registered Nurse License Number 441072, previously issued to BONICCI GAIL DRISKILL.



Effective this 15th day of February, 2012.

Katherine A. Thomas

Katherine A. Thomas, MN, RN, FAAN
Executive Director on behalf
of said Board

Decision Entered On: 02/11/2011
FILED
February 14, 2011
KENTUCKY BOARD OF NURSING
Diane Thomas

[13-02-11]

COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF NURSING
CASE #2009-1173, 2009-1384

DECISION

GAIL BONICCI DRISKILL

TEXAS RN LICENSE NO. 441072
(IMMEDIATE TEMPORARY SUSPENSION)

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

This matter is before the Kentucky Board of Nursing on a Notice of Charges. Due to the Respondent's failure to file a written answer, a default order was entered.

Pursuant to the Notice of Charges, Respondent was charged with violating:

KRS 314.091(1)(b) – Has been convicted of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence;

KRS 314.091(1)(d) - Has negligently or willfully acted in a manner inconsistent with the practice of nursing;

KRS 314.091(1)(e) - Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;

KRS 314.091(1)(f) - Abuses use of controlled substances, prescription medications, illegal substances or alcohol;

KRS 314.091(1)(j) - Has violated any of the provisions of this chapter;

Date 2.22.11
I certify this to be a true copy of the record(s) on file with the Kentucky Board of Nursing

Carolyn M.

KRS 314.091(1)(k) – Has violated any lawful order or directive previously entered by the board;

FINDINGS OF FACT

1. Respondent, Gail Bonicci Driskill, is a Registered Nurse (RN) licensed in the state of Texas and, therefore, privileged to practice in the Commonwealth of Kentucky pursuant to KRS 314.470.
2. The Board filed the Notice of Charges and Notice of Intent to Request Hearing on November 3, 2010, and mailed a copy to the Respondent's address of record by certified mail. The Notice was returned by the Post Office as Return to Sender Attempted – Not Known Unable to Forward on November 15, 2010.
3. Pursuant to 201 KAR 20:162, Section 3, Respondent was required to file a written answer to the allegations within twenty days of receipt of the charges. An allegation not properly answered is deemed admitted. Respondent failed to file a written answer. The Board moved for a default order, which was granted pursuant to KRS 13B.080(6).
4. KRS 314.021(2) holds all nurses responsible and accountable for making decisions based upon their educational preparation and experience in nursing, and requires that they practice with reasonable skill and safety.
5. On January 14, 2009, Ms. Driskill was convicted of the crime of Operating a Motor Vehicle Under the Influence of Alcohol/Drugs, 1st Offense, in Lyon County, Kentucky.
6. On January 26, 2009, Mr. Driskill was convicted of the crime of Operating a Motor Vehicle Under the Influence of Alcohol/Drugs, 2nd Offense, in McCracken County, Kentucky.
7. On March 11, 2009, Ms. Driskill was employed as an RN at Paducah Care and Rehabilitation Center, Paducah, Kentucky.
8. On April 6, 2009, facility staff reported to the administrator that Ms. Driskill smelled of alcohol, her pupils were dilated, and her speech was slurred during her shift. She was requested and agreed to submit to a drug/alcohol test, which resulted in a breathalyzer reading of 0.237 and a BAC reading of 0.224.
9. On April 7, 2009, Ms. Driskill was arrested in McCracken County, Kentucky and charged with Possession of an Open Alcoholic Beverage Container in a Motor Vehicle,

Driving While Intoxicated and on a Suspended License, 2nd Offense, and Operating a Motor Vehicle Under the Influence of Alcohol/Drugs, 3rd Offense.

10. On May 14, 2009, the Board issued an Order for a Chemical Dependency Evaluation to Ms. Driskill pursuant to KRS 314.085.
11. On June 18, 2009, the Board issued an Order of Immediate Temporary Suspension to Ms. Driskill pursuant to KRS 314.085, KRS 314.089, and KRS 314.470 due to her failure to obtain the required evaluation.

CONCLUSIONS OF LAW

1. The Kentucky Board of Nursing has jurisdiction to take disciplinary action against individual's privilege to practice by the Board pursuant to KRS Chapter 314.
2. The burden of proof for disciplinary charges brought under KRS 314.091 is upon the Board.
3. The Board properly served notice on the Respondent pursuant to KRS 13B.050.
4. The Respondent is guilty of violating KRS 314.091(1)(b), (d), (e), (f), (j), and (k).

ORDER

1. The privilege to practice nursing in Kentucky of Texas RN License No. 441072 of Respondent, Gail Bonicci Driskill, shall be continued on suspension for at least five (5) years. A hearing shall be required to consider reinstatement of the privilege. Respondent shall be required to submit a written request to schedule a hearing. An application for licensure shall not be considered for at least five (5) years.
2. At the hearing for reinstatement, the Respondent shall provide the following:
 - a. Verification of a current mental health evaluation performed no earlier than ninety (90) days prior to the hearing to consider reinstatement, and documented evidence of compliance with the recommendations of a psychiatrist, licensed psychologist, or an advanced registered nurse practitioner in the field of psychiatric/mental health (APRN). The evaluator must contact the Board staff prior to performing the evaluation and shall submit a written report to the Board upon completion.
 - b. Verification of a current chemical dependency evaluation performed no earlier than ninety (90) days prior to the hearing to consider reinstatement, and documented evidence of compliance with the recommendations of a specialist in the field of chemical dependency, such as a physician addictionologist, a licensed psychologist, advanced registered nurse practitioner (APRN), or a certified alcohol and drug

counselor (CADC). The evaluator must contact the Board prior to performing the evaluation and submit a written report to the Board upon completion.

- c. Verification of completion of a substance abuse treatment program, if recommended by the chemical dependency evaluator.
- d. Evidence of participation in therapeutic counseling for as long as deemed necessary by the therapeutic counselor or primary therapist.
- e. A letter of support from the therapeutic counselor or primary therapist verifying that the Respondent can return to nursing practice.
- f. Verification of 36 copies of random body fluid samples for drug/alcohol testing utilizing the drug screen program designated by the Board. These screens are to be performed randomly over a twelve (12) month period of time to verify at least twelve (12) continuous months of sobriety prior to requesting a hearing for reinstatement of the nursing license. Compliance with all requirements of the drug screen program concerning random alcohol and drug testing is required. These screens are to be performed at the expense of the person requesting reinstatement. A GC/MS (gas chromatography/mass spectrometry) or LC/MS (liquid chromatography/mass spectrometry) confirmed drug screen indicating the use of alcohol or any unprescribed mood-altering substance cannot be used for reinstatement of the nursing license;
- g. Verification of continued participation in a chemical dependency support group, if recommended by the chemical dependency evaluator.
- h. At least three (3) notarized letters of recommendation from persons who have had direct contact with Respondent during the period of suspension/revocation.
- i. Evidence that Respondent has committed a violation of KRS Chapter 314 during the period of suspension shall be considered at the time of Respondent's request for reinstatement and may be grounds for additional disciplinary action against the nursing license.
- j. Evidence of successful completion of at least sixty (60) contact hours. Thirty (30) of the contact hours must be on Legal/Ethical issues and thirty (30) contact hours on Substance Abuse. These contact hours are to be over and above the continuing competency requirement for reinstatement of the nursing license.
- k. Verification of compliance with court ordered probation/parole.
- l. Evidence of a current license in the Respondent's home state.
- m. Evidence of compliance with the terms of any disciplinary order that may be imposed by the Respondent's home state.

- n. Submission of fraudulent documents or reports, or misrepresentation of facts presented during the hearing for reinstatement may be grounds for additional disciplinary action.
- 3. A civil penalty in the amount of \$3000 shall be imposed, to be paid in full prior to the scheduling of a hearing.
- 4. A hearing fee in the amount of \$300 for the hearing officer services shall be assessed, to be paid in full prior to the scheduling of a hearing.

NOTICE OF APPEAL RIGHTS

Respondent has a right to appeal the Final Order of the agency pursuant to KRS 13B.140 that reads in part:

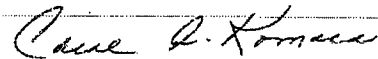
(1) All final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order,

Pursuant to KRS 23A.010(4), such review [by Circuit Court] shall not constitute an appeal but an original action. Some courts have interpreted this language to mean that summons must be served upon filing an appeal in Circuit Court. Also, KRS 314.091(6) states: "Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B."

The Board considered the record and entered the above Findings of Fact, Conclusions of Law and Order, which represent a **Final Decision** duly made by the Kentucky Board of Nursing.

Entered this 11th day of February, 2011.

(Board Seal)



Carol A. Komara, RN, MSN
President
KENTUCKY BOARD OF NURSING

CERTIFICATE OF SERVICE

I hereby certify that a true copy of this Final Decision was mailed by certified mail to Gail Bonicci Driskill, 402 Legion Drive, Paducah, KY 42003 her last known address, and delivered to the Hon. Scott D. Majors, Prosecuting Attorney, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky this 14th day of February, 2011.



DIANE THOMAS
DOCKET COORDINATOR
KENTUCKY BOARD OF NURSING

COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF NURSING
Case Numbers: 2009-1173 (Alcohol/Employment)
2009-1384 (Convictions)

In The Matter Of: **GAIL BONICCI DRISKILL**
Texas RN License No. 441072 (Compact)
402 Legion Drive.
Paducah, KY 42003

ORDER OF IMMEDIATE TEMPORARY SUSPENSION

Pursuant to KRS 314.085(1), KRS 314.089(1) and KRS 314.470, Article III, the Kentucky Board of Nursing hereby issues the following Order for the immediate temporary suspension of the privilege of Gail Bonicci Driskill ("the Respondent") to practice as a Registered Nurse in the Commonwealth of Kentucky. Pursuant to the above-cited statutes, the basis for this Order is as follows:

Findings of Fact

1. The Respondent is a Registered Nurse, licensed by the Texas Board of Nursing, license number 441072; as such, the Kentucky Board of Nursing has jurisdiction in this matter pursuant to KRS Chapter 314.470.
2. On or about January 14, 2009, Respondent was convicted of the crime of Operating a Motor Vehicle Under the Influence of Alcohol/Drugs, 1st Offense, in Lyon County, Kentucky.
3. On January 26, 2009, Respondent was convicted of the crime of Operating a Motor Vehicle Under the Influence of Alcohol/Drugs, 2nd Offense, in McCracken County, Kentucky.
4. Respondent was hired as a Registered Nurse at Paducah Care & Rehabilitation Center ("PCRC") in Paducah, Kentucky, on March 11, 2009. On April 6, 2009, PCRC personnel reported to the facility's Administrator that Respondent smelled of alcohol, her pupils were dilated and her speech was slurred, all during the course of her shift. Respondent was requested and agreed to submit to a drug/alcohol test, which resulted in a breathalyzer reading of 0.237 and a BAC reading of 0.224.

In the Matter of: Gail Bonicci Driskill
TX RN License No. 441072 (Compact)

5. One day later, on April 7, 2009, Respondent was arrested in McCracken County, Kentucky, and charged with: (a) Possession of an Open Alcoholic Beverage Container in a Motor Vehicle; (b) Driving While Intoxicated and on a Suspended License, 2nd Offense; and (c) Operating a Motor Vehicle Under the Influence of Alcohol/Drugs, 3rd Offense. Consequently, Respondent was incarcerated in the McCracken County Jail, where she remained when, on April 8, 2009, the Administrator for the PCRC reported Respondent to the Board for investigation.

6. On or about May 14, 2009, the Kentucky Board of Nursing, pursuant to KRS 314.085, issued an Order for a Chemical Dependency Evaluation by mailing same to the Respondent at her address of record by certified U.S. mail. The envelope containing the notice and charges was returned to the Board by the U.S. Postal Service on May 26, 2009, marked "RETURN TO SENDER ATTEMPTED - NOT KNOWN UNABLE TO FORWARD." The Order was re-mailed via regular mail on May 26, 2009, and the envelope containing the notice and charges was returned to the Board by the U.S. Postal Service on June 1, 2009, marked "RETURN TO SENDER ATTEMPTED - NOT KNOWN UNABLE TO FORWARD." The evaluation was due in the Board office on or before June 15, 2009.

7. As of the date of this Order, the Respondent has failed to provide the Kentucky Board of Nursing with the required Chemical Dependency Evaluation.

8. On May 22, 2009, the Board filed a Formal Complaint against the Respondent based on the above-referenced criminal convictions.

Conclusions of Law

9. Service of the Order for Chemical Dependency Evaluation upon the Respondent was completed on May 26, 2009. KRS 13B.050(2).

In the Matter of: Gall Bonicci Driskill
TX RN License No. 441072 (Compact)

10. Based on the findings of fact, above, Respondent's conduct constitutes a violation of the Order for Chemical Dependency Evaluation, pursuant to KRS 314.085(1), and also constitutes a violation of KRS 314.091(1):

* * *

(d) – has negligently or willfully acted in a manner inconsistent with the practice of nursing; and

* * *

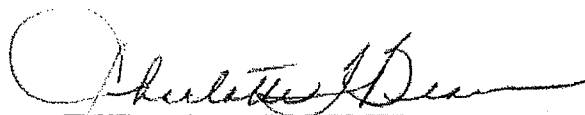
(k) – has violated any lawful order or directive previously entered by the Board.

The Respondent is hereby **ORDERED to CEASE AND DESIST** from the practice of nursing in the Commonwealth of Kentucky effective immediately. Any such practice after the date of this Order shall constitute grounds for further disciplinary action.

The Respondent's privilege to practice nursing in the Commonwealth of Kentucky is immediately suspended on a temporary basis.

Pursuant to KRS 13B.125(3), the Respondent may request a Hearing in regard to this Order. Any such request must be in writing and sent to the attention of the Hearing Officer, Kentucky Board of Nursing, Suite 300, 312 Whittington Parkway, Louisville, Kentucky 40222. A request for a Hearing does not stay the effect of this Order.

This 18th day of June 2009.

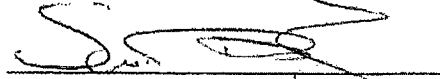


Charlotte F. Beason, Ed.D., RN, NEA
Executive Director
Kentucky Board of Nursing

In the Matter of: **Gail Bonicci Driskill**
TX RN License No. 441072 (Compact)

Certificate of Service

This is to certify that a true and correct copy of the foregoing Order of Immediate Temporary Suspension was served upon Gail Bonicci Driskill at 402 Legion Drive, Paducah, Kentucky 42003, via certified U.S. Mail, return receipt requested, postage pre-paid, and via regular U.S. mail, postage prepaid, all on this the 18th day of June, 2009.



Scott D. Majors
Staff Attorney
Kentucky Board of Nursing
312 Whittington Parkway, Ste. 300
Louisville, Kentucky 40222
(502) 429-3300, ext. 243

I hereby certify that the Order of Immediate Temporary Suspension was served the 18th day of June, 2009, and became effective on that date pursuant to KRS 13B.125(2).



Consumer Protection Branch
Kentucky Board of Nursing

COMMONWEALTH OF KENTUCKY
BOARD OF NURSING
CASE NUMBERS: 2009-1173 (Alcohol/Employment)
2009-1384 (Conviction)

KENTUCKY BOARD OF NURSING

PETITIONER

MOTION FOR DEFAULT ORDER

GAIL BONICCI DRISKILL

RESPONDENT

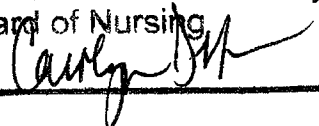
Texas RN License No. 441072 (ITS: 06/18/2009)

* * * * *

Comes Now the Petitioner, the Kentucky Board of Nursing (sometimes "the Board"), by counsel, pursuant to KRS 13B.080(6), KRS 314.091, and 201 KAR 20:162, Section 3, and moves for the entry of a Default Order in the above styled matter. In support of this Motion, the Board states as follows:

1. Gail Bonicci Driskill ("the Respondent") was served with the *Notice of Charges and Notice of Intent to Request Hearing* ("the Notice") in this case, pursuant to KRS 13B.050. The Notice was served by mailing same via United States Postal Service, certified mail, return receipt requested, on November 3, 2010, to Respondent's current mailing address on file with the Board, pursuant to KRS 314.107. The mailing envelope and domestic return receipt ("Green Card") were returned by the U.S. Postal Service to the Board on November 15, 2010, marked "RETURN TO SENDER ATTEMPTED - NOT KNOWN UNABLE TO FORWARD." Additionally, the Board attempted to serve the Notice to Respondent by regular mail, postage prepaid, on November 4, 2010, but that mailing envelope, likewise, was returned by the U.S. Postal Service to the Board on November 29, 2010, marked, "RETURN TO SENDER ATTEMPTED - NOT KNOWN

Date 2.22.11
I certify this to be a true copy of the record(s) on file with the Kentucky Board of Nursing.



UNABLE TO FORWARD.” The Board hereby attaches documents in support of its assertion that service upon Respondent has been satisfied, pursuant to KRS 314.107.

2. On page 4 of the Notice, Respondent was apprised of the following:

Pursuant to Kentucky Board of Nursing administrative regulation 201 KAR 20:162, Section 3:

The licensee or applicant shall file with the board a written answer to the specific allegations contained in the notice of charges within twenty (20) days of receipt of the charges. An allegation not properly answered shall be deemed admitted. Failure to file an answer may result in the issuance of a default order pursuant to KRS 13B.080(6). The hearing officer shall for good cause permit the late filing of an answer.

Respondent’s letter of explanation submitted in response to the initial complaints, if any, do not qualify as “a written answer to the specific allegations contained in the notice of charges. . . .”

As of the date of this Motion, Respondent has failed to file a written answer to the Notice or communicate with the Board in any fashion.

3. The Board submits that it is entitled to a Default Order as a matter of law and in the best interests of justice and public protection, as there are no issues of fact in contention. The Board further submits that, as the Respondent has failed to file an answer as required under 201 KAR 20:162, Section 3, all allegations contained in the Notice should be deemed as true and proven. [See: KRS 13B.080(6) and Rule 55, Kentucky Rules of Civil Procedure].

WHEREFORE, for the reasons as set forth above, the Board requests that a Default Order be entered against the Respondent, as follows:

- (a) Respondent’s privilege to practice nursing in the Commonwealth of Kentucky by CONTINUED ON

SUSPENSION for a period of at least five (5) years from the date of the Board's Final Order; and

- (b) A hearing shall be required to consider reinstatement of Respondent's application for licensure or privilege to practice nursing. Respondent shall be required to submit a written request to schedule a hearing for licensure or reinstatement, and comply with all terms and conditions set forth in 201 KAR 20:255 which apply to reinstatement of a suspended license. Reinstatement of the nursing license shall be in accordance with the Requested Terms for Reinstatement of a License that has been Continued on Suspension, attached hereto.

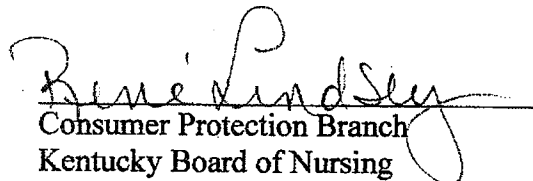
Respectfully submitted,



Scott D. Majors
Staff Attorney
Kentucky Board of Nursing
312 Whittington Parkway, Ste 300
Louisville, Kentucky 40222
(502) 429-3339

Certificate of Service

This is to certify that a true and correct copy of the foregoing *Motion for Default Order* was served upon the Respondent, Gail Driskill, 402 Legion Drive, Paducah, Kentucky 42003, her address of record on file with the Kentucky Board of Nursing, pursuant to KRS 314.107, by regular U.S. Mail, postage pre-paid; and to the Hearing Officer, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 305, Louisville, Kentucky 40222, via hand delivery to the Docket Clerk, Kentucky Board of Nursing, Suite 305, 312 Whittington Parkway, Louisville, Kentucky 40222, all on this 8th day of December 2010.



Consumer Protection Branch
Kentucky Board of Nursing

COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF NURSING
CASE NO. 2009-1173 & 2009-1384

KENTUCKY BOARD OF NURSING

PETITIONER

V.

DEFAULT ORDER

GAIL BONICCI DRISKILL
402 LEGION DRIVE
PADUCAH, KY 42003

RESPONDENT

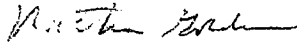
.....

This matter comes before the Hearing Officer on Petitioner's Motion for a Default Order filed on **December 8, 2010**. The Notice of Charges was filed in this case on **November 3, 2010**. Proof of service pursuant to KRS 13B.050 was submitted. Pursuant to administrative regulation 201 KAR 20:162, Section 3, the Respondent was required to file a written answer to the charges within twenty days of receipt of the charges. No answer has been filed to date. Pursuant to KRS 13B.080(6), failure to comply with any stage of the administrative hearing process may result in the issuance of a default order. Also, pursuant to 201 KAR 20:162, Section 3, an allegation not answered shall be deemed admitted.

Therefore pursuant to KRS 13B.080(6), the motion for a default order is granted. Pursuant to KRS 13B.110, a recommended order will be prepared and submitted to the parties within sixty days of this date.

Date 2.22.11
I certify this to be a
true copy of the record(s)
on file with the Kentucky
Board of Nursing
Carlynn M

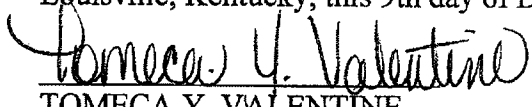
This 9th day of December, 2010.



NATHAN GOLDMAN
HEARING OFFICER
Kentucky Board of Nursing
Suite 300, 312 Whittington Parkway
Louisville, Kentucky 40222
Tel: (502) 429-3309
Fax: (Frankfort exchange): (502) 696-3938
Email: nathan.goldman@ky.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Default Order was mailed to Respondent, Gail Bonicci Driskill, 402 Legion Drive, Paducah, KY 42003 and hand delivered to Scott D. Majors, Prosecuting Attorney, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky, this 9th day of December, 2010.


TOMECA Y. VALENTINE
DOCKET COORDINATOR

COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF NURSING
CASE #2009-1173, 2009-1384

GAIL BONICCI DRISKILL
TEXAS RN LICENSE NO. 441072
(IMMEDIATE TEMPORARY SUSPENSION)

RECOMMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

STATEMENT OF THE CASE

This matter is before the Kentucky Board of Nursing on a Notice of Charges. Due to the Respondent's failure to file a written answer, a default order was entered.

Pursuant to the Notice of Charges, Respondent was charged with violating:

KRS 314.091(1)(b) – Has been convicted of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence;

KRS 314.091(1)(d) - Has negligently or willfully acted in a manner inconsistent with the practice of nursing;

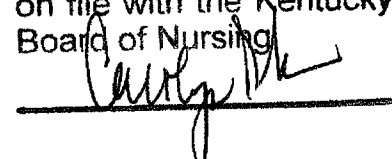
KRS 314.091(1)(e) - Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;

KRS 314.091(1)(f) - Abuses use of controlled substances, prescription medications, illegal substances or alcohol;

KRS 314.091(1)(j) - Has violated any of the provisions of this chapter;

KRS 314.091(1)(k) – Has violated any lawful order or directive previously entered by the board;

Date 2.22.11
I certify this to be a
true copy of the record(s)
on file with the Kentucky
Board of Nursing



FINDINGS OF FACT

1. Respondent, Gail Bonicci Driskill, is a Registered Nurse (RN) licensed in the state of Texas and, therefore, privileged to practice in the Commonwealth of Kentucky pursuant to KRS 314.470.
2. The Board filed the Notice of Charges and Notice of Intent to Request Hearing on November 3, 2010, and mailed a copy to the Respondent's address of record by certified mail. The Notice was returned by the Post Office as Return to Sender Attempted – Not Known Unable to Forward on November 15, 2010.
3. Pursuant to 201 KAR 20:162, Section 3, Respondent was required to file a written answer to the allegations within twenty days of receipt of the charges. An allegation not properly answered is deemed admitted. Respondent failed to file a written answer. The Board moved for a default order, which was granted pursuant to KRS 13B.080(6).
4. KRS 314.021(2) holds all nurses responsible and accountable for making decisions based upon their educational preparation and experience in nursing, and requires that they practice with reasonable skill and safety.
5. On January 14, 2009, Ms. Driskill was convicted of the crime of Operating a Motor Vehicle Under the Influence of Alcohol/Drugs, 1st Offense, in Lyon County, Kentucky.
6. On January 26, 2009, Mr. Driskill was convicted of the crime of Operating a Motor Vehicle Under the Influence of Alcohol/Drugs, 2nd Offense, in McCracken County, Kentucky.
7. On March 11, 2009, Ms. Driskill was employed as an RN at Paducah Care and Rehabilitation Center, Paducah, Kentucky.
8. On April 6, 2009, facility staff reported to the administrator that Ms. Driskill smelled of alcohol, her pupils were dilated, and her speech was slurred during her shift. She was requested and agreed to submit to a drug/alcohol test, which resulted in a breathalyzer reading of 0.237 and a BAC reading of 0.224.
9. On April 7, 2009, Ms. Driskill was arrested in McCracken County, Kentucky and charged with Possession of an Open Alcoholic Beverage Container in a Motor Vehicle,

Driving While Intoxicated and on a Suspended License, 2nd Offense, and Operating a Motor Vehicle Under the Influence of Alcohol/Drugs, 3rd Offense.

10. On May 14, 2009, the Board issued an Order for a Chemical Dependency Evaluation to Ms. Driskill pursuant to KRS 314.085.
11. On June 18, 2009, the Board issued an Order of Immediate Temporary Suspension to Ms. Driskill pursuant to KRS 314.085, KRS 314.089, and KRS 314.470 due to her failure to obtain the required evaluation.

CONCLUSIONS OF LAW

1. The Kentucky Board of Nursing has jurisdiction to take disciplinary action against individual's privilege to practice by the Board pursuant to KRS Chapter 314.
2. The burden of proof for disciplinary charges brought under KRS 314.091 is upon the Board.
3. The Board properly served notice on the Respondent pursuant to KRS 13B.050.
4. The Respondent is guilty of violating KRS 314.091(1)(b), (d), (e), (f), (j), and (k).

ORDER

1. The privilege to practice nursing in Kentucky of Texas RN License No. 441072 of Respondent, Gail Bonicci Driskill, shall be continued on suspension for at least five (5) years. A hearing shall be required to consider reinstatement of the privilege. Respondent shall be required to submit a written request to schedule a hearing. An application for licensure shall not be considered for at least five (5) years.
2. At the hearing for reinstatement, the Respondent shall provide the following:
 - a. Verification of a current mental health evaluation performed no earlier than ninety (90) days prior to the hearing to consider reinstatement, and documented evidence of compliance with the recommendations of a psychiatrist, licensed psychologist, or an advanced registered nurse practitioner in the field of psychiatric/mental health (APRN). The evaluator must contact the Board staff prior to performing the evaluation and shall submit a written report to the Board upon completion.
 - b. Verification of a current chemical dependency evaluation performed no earlier than ninety (90) days prior to the hearing to consider reinstatement, and documented evidence of compliance with the recommendations of a specialist in the field of chemical dependency, such as a physician addictionologist, a licensed psychologist, advanced registered nurse practitioner (APRN), or a certified alcohol and drug

- counselor (CADC). The evaluator must contact the Board prior to performing the evaluation and submit a written report to the Board upon completion.
- c. Verification of completion of a substance abuse treatment program, if recommended by the chemical dependency evaluator.
 - d. Evidence of participation in therapeutic counseling for as long as deemed necessary by the therapeutic counselor or primary therapist.
 - e. A letter of support from the therapeutic counselor or primary therapist verifying that the Respondent can return to nursing practice.
-
- f. Verification of 36 copies of random body fluid samples for drug/alcohol testing utilizing the drug screen program designated by the Board. These screens are to be performed randomly over a twelve (12) month period of time to verify at least twelve (12) continuous months of sobriety prior to requesting a hearing for reinstatement of the nursing license. Compliance with all requirements of the drug screen program concerning random alcohol and drug testing is required. These screens are to be performed at the expense of the person requesting reinstatement. A GC/MS (gas chromatography/mass spectrometry) or LC/MS (liquid chromatography/mass spectrometry) confirmed drug screen indicating the use of alcohol or any unprescribed mood-altering substance cannot be used for reinstatement of the nursing license;
 - g. Verification of continued participation in a chemical dependency support group, if recommended by the chemical dependency evaluator.
 - h. At least three (3) notarized letters of recommendation from persons who have had direct contact with Respondent during the period of suspension/revocation.
 - i. Evidence that Respondent has committed a violation of KRS Chapter 314 during the period of suspension shall be considered at the time of Respondent's request for reinstatement and may be grounds for additional disciplinary action against the nursing license.
 - j. Evidence of successful completion of at least sixty (60) contact hours. Thirty (30) of the contact hours must be on Legal/Ethical issues and thirty (30) contact hours on Substance Abuse. These contact hours are to be over and above the continuing competency requirement for reinstatement of the nursing license.
 - k. Verification of compliance with court ordered probation/parole.
 - l. Evidence of a current license in the Respondent's home state.
 - m. Evidence of compliance with the terms of any disciplinary order that may be imposed by the Respondent's home state.

- n. Submission of fraudulent documents or reports, or misrepresentation of facts presented during the hearing for reinstatement may be grounds for additional disciplinary action.
3. A civil penalty in the amount of \$3000 shall be imposed, to be paid in full prior to the scheduling of a hearing.
4. A hearing fee in the amount of \$300 for the hearing officer services shall be assessed, to be paid in full prior to the scheduling of a hearing.

NOTICE OF EXCEPTION RIGHTS

Pursuant to KRS 13B.110(4) a party has the right to file exceptions to this Proposed Decision:

A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the Date the recommended order is mailed within which to file exceptions to the recommendations with the agency head.

Exceptions are filed with the Kentucky Board of Nursing by mailing a copy to Tomeca Y. Valentine, Docket Coordinator, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222. A copy must be served upon the opposing party.

NOTICE OF APPEAL RIGHTS

Respondent has a right to appeal the Final Order of the agency pursuant to KRS 13B.140 that reads in part:

(1) All final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

Pursuant to KRS 23A.010(4), such review [by Circuit Court] shall not constitute an appeal but an original action. Some courts have interpreted this language to mean that summons must be served upon filing an appeal in Circuit Court. Also, KRS 314.091(6) states: "Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B."

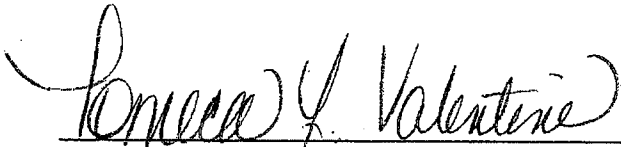
DONE this 15th day of December, 2010.



NATHAN GOLDMAN
HEARING OFFICER

CERTIFICATE OF SERVICE

I hereby certify that a true copy of this Proposed Decision was mailed by regular mail to Gail Bonicci Driskill, 402 Legion Drive, Paducah, KY 42003 her last known address, and delivered to the Hon. Scott D. Majors, Prosecuting Attorney, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky this 15th day of December, 2010.



TOMECA Y. VALENTINE
DOCKET COORDINATOR
KENTUCKY BOARD OF NURSING