

DOCKET NUMBER 507-11-6952

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 664308
ISSUED TO
LEATTA JEAN GUILLORY

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



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 A. Roman
Executive Director of the Board

OPINION AND ORDER OF THE BOARD

TO: LEATTA JEAN GUILLORY
301 MAIN PLAZA, #142
NEW BRAUNFELS, TX 78130

ROY G. SCUDDAY
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on October 27-28, 2011, 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 the PFD regarding the registered nursing license of Leatta Jean Guillory 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 Respondent's presentation 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.

IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 664308, previously issued to LEATTA JEAN GUILLORY, 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 20th day of October, 2011.

TEXAS BOARD OF NURSING



KATHERINE A. THOMAS, MN, RN

EXECUTIVE DIRECTOR FOR THE BOARD

Attachment: Proposal for Decision; Docket No. 507-11-6952 (August 9, 2011).

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

August 9, 2011

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. 507-11-6952; In the Matter of Permanent
Certificate No. 664308 Issued to Leatta Jean Guillory

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,

Roy G. Scudday
Administrative Law Judge

RGS/ap
Enclosures

XC: Lance R. Brenton, Texas Board of Nursing, 333 Guadalupe, Tower III, Ste. 460,
Austin, TX 78701 – VIA INTER-AGENCY
Dina Flores, Legal Assistant TBN, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 – (with
1 CD; Certified Evidentiary Records – from Show Cause Hearing and Hearing on the Merits) –
VIA INTER-AGENCY
Leatta Jean Guillory, 301 Main Plaza #142, New Braunfels, TX 78130-VIA REGULAR MAIL

SOAH DOCKET NO. 507-11-6952

IN THE MATTER OF PERMANENT § BEFORE THE STATE OFFICE
CERTIFICATE NO. 664308 ISSUED TO § OF
LEATTA JEAN GUILLORY § ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas Board of Nursing (Staff/Board) brought action against Leatta Jean Guillory (Respondent) seeking to revoke Respondent's license to practice as a registered nurse in the State of Texas. The Administrative Law Judge (ALJ) recommends that Respondent's license to practice as a registered nurse in the State of Texas should be revoked.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The hearing convened on August 3, 2011, before ALJ Roy G. Scudday in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff was represented by Lance Robert Brenton, Assistant General Counsel, who moved for a default based on the failure of Respondent to appear, which was granted.

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. FINDINGS OF FACT

1. Leatta Jean Guillory (Respondent) is licensed as a registered nurse and holds License No. 664308 issued by the State of Texas.
2. On July 11, 2011, Staff mailed its Notice of Hearing and Formal Charges that had been filed against Respondent to her last known address of record at 301 Main Plaza, #142, New Braunfels, Texas 78130, by United States Post Office certified mail. The certified mail was signed for on behalf of Respondent on July 13, 2011.

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 Formal Charges were deemed admitted.
6. On or about May 4, 2011, Respondent became non-compliant with the Agreed Order issued to her by the Texas Board of Nursing (Board) on July 29, 2010. Non-compliance is the result of Respondent's failure to comply with the requirements of a Texas Peer Assistance Program for Nurses (TPAPN) contract in that she submitted a specimen for a drug screen which resulted positive for alcohol metabolites. Respondent also admitted to consuming alcohol. Stipulation Number Three (3) of the Agreed Order dated July 29, 2010, states:

"(3) RESPONDENT SHALL comply with all requirements of the TPAPN participation agreement during its term and SHALL keep her licenses to practice nursing in the State of Texas current."

7. On or about May 16, 2011, Respondent was dismissed from TPAPN and her licensing case was referred back to the Board.

III. CONCLUSIONS OF LAW


1. The Texas Board of Nursing (Board) has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. (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 ANN. 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 ANN. §§ 2001.051 and 2001.052.

4. Staff of the Board had the burden of proving the case by a preponderance of the evidence. Because of Respondent's failure to appear at the hearing, Staff met that burden pursuant to 1 TEX. ADMIN. CODE (TAC) § 155.501.
5. Based on Findings of Fact Nos. 6 and 7, Respondent violated Code § 301.452(b)(1) and (10) and 22 TAC § 217.12(9), and (11)(B).

IV. RECOMMENDATION

Based upon the preceding Findings of Fact and Conclusions of Law, the ALJ recommends that Respondent's license to practice as a registered nurse in the State of Texas should be revoked.

SIGNED August 9, 2011.



ROY G. SCUDDAY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS