



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 P. Thomas
Executive Director of the Board

DOCKET NUMBER 507-12-6070

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 150850
ISSUED TO
MICHELLE R. BOGUE

§
§
§
§
§

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

OPINION AND ORDER OF THE BOARD

TO: MICHELLE R. BOGUE
3510 EAST BROADWAY, APT 708
PEARLAND, TX 77581

3909 BURKE ROAD, #2904
PASADENA, TX 77504

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

At the regularly scheduled public meeting on October 18-19, 2012, the Texas Board of Nursing (Board) considered the following items: (1) Order Number 1, *Order Dismissing Case*, issued by the Administrative Law Judge (ALJ) in the above cited matter;(2) Staff's recommendation that the Board revoke the Respondent's vocational nursing license by default; and (3) Respondent's recommendation to the Board regarding the above cited matter, if any.

On May 30, 2012, the ALJ convened a hearing on the merits in this matter. Staff of the Board was present for the hearing. However, the Respondent was not present at the hearing, and no one appeared on her behalf. During the hearing on May 30, 2012, Staff introduced evidence into the record demonstrating that Respondent had been sent a Notice of Hearing by first class certified mail return receipt requested to her last known address of record maintained by the Board in accordance with 22 Tex. Admin. Code §213.10(a). The ALJ found that Staff's notice was adequate, granted Staff's Motion for Default, and issued Order No. 1, dismissing the case from the docket of the State Office of Administrative Hearings (SOAH) and remanding it to the Board for informal disposition on a default basis in accordance with the Government Code §2001.056.

The Board, after review and due consideration of Order Number 1, *Order Dismissing Case*, finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with the Government Code §2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Occupations Code Chapter 301 (Nursing Practice Act) for retention of Respondent's license to practice vocational nursing in the State of Texas. The Board further finds that the Formal Charges were properly initiated and filed in accordance with the Occupations Code §301.458. The Board further finds that proper and timely notice regarding the violations alleged in the Formal Charges was given to Respondent in accordance with the

requirements of the Government Code §2001.051 and §2001.052 and 1 Tex. Admin. Code §155.501. The Board further finds that the Respondent failed to appear in accordance with 22 Tex. Admin. Code Chapter 213 and 1 Tex. Admin. Code §155.501. As a result of the Respondent's failure to appear, the Board has determined that the factual allegations listed in the Notice of Hearing and Formal Charges are to be deemed admitted by default and the Board is authorized to enter a default order against the Respondent pursuant to the Government Code §2001.056 and 22 Tex. Admin. Code §213.16. Further, the Board has determined that it is entitled to revoke the Respondent's vocational nursing license pursuant to 22 Tex. Admin. Code §213.33(m).


Therefore, the Board hereby adopts the factual allegations, which have been deemed admitted, and the conclusions of law contained in the Formal Charges, which are attached hereto and incorporated herein by reference for all purposes, and 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 in accordance with the Government Code Chapter 2001 and 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.

IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 150850, previously issued to MICHELLE R. BOGUE, 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 18th day of October, 2012.

TEXAS BOARD OF NURSING


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

Attachment: Notice of Hearing and Formal Charges.

TEXAS BOARD OF NURSING

In the Matter of Permanent

Certificate Number 150850

Issued to MICHELLE R. BOGUE

NOTICE OF HEARING

SOAH Docket Number 507-12-6070

Respondent: Michelle R. Bogue
3510 East Broadway # 708
Pearland, TX 77581

And

Michelle R. Bogue
3909 Burke Road # 2904
Pasadena, TX 77504

In accordance with Section 2001.051 et seq., Texas Government Code, you are hereby notified that a hearing will be held before an Administrative Law Judge (ALJ), beginning on the 30th day of May, 2012, at 9:00 a.m., and continuing day to day as ordered by the ALJ, at the State Office of Administrative Hearings, William P. Clements Building, 300 W. 15th Street, 4th Floor, Austin, Texas, regarding the Formal Charges previously filed and served upon you by the Texas Board of Nursing. The Formal Charges are attached and incorporated by reference as a part of this notice.

The hearing is to be held under the legal authority and jurisdiction of the Administrative Procedures Act, Texas Government Code §2001 et seq.; Title 1 Part VII Texas Administrative Code Chapter 155; the Nursing Practice Act, Texas Occupations Code §301.451 through §301.555; and the Board of Nursing Rule 213 at 22 Texas Administrative Code.

The particular sections of statutes and rules involved in determining the charges are stated in the attached Formal Charges in connection to the facts or conduct alleged.

Pursuant to 22 TEX. ADMIN. CODE §213.22, you are required to enter an appearance in this proceeding by filing a written answer or other responsive pleading with the State Office of Administrative Hearings, P.O. Box 13025, Austin, Texas, 78711-3025, with a copy to the staff (General Counsel, Texas Board of Nursing, 333 Guadalupe, Suite 3-460, Austin, Texas 78701). **FAILURE TO ENTER AN APPEARANCE BY FILING A WRITTEN ANSWER OR OTHER RESPONSIVE PLEADING TO THE FORMAL CHARGES WITHIN 20 DAYS OF THE DATE THIS NOTICE WAS MAILED SHALL ENTITLE THE STAFF TO A CONTINUANCE AT THE TIME OF THE HEARING.** "Staff" is defined by 22 TEX. ADMIN. CODE §213.1(41). Continuances are set by the Administrative Law Judge.

Michelle R. Bogue

May 1, 2012

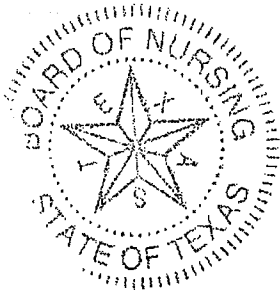
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You have the right to appear at this hearing and to have legal representation at the hearing at your own expense. **FAILURE TO APPEAR AT THE HEARING IN PERSON OR BY LEGAL REPRESENTATIVE, REGARDLESS OF WHETHER AN APPEARANCE HAS BEEN ENTERED, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT.**

If it is determined that the Formal Charges are substantiated, then any prior disciplinary action that has been taken against your license will be considered when determining the appropriate sanction for these violation(s).

Issued, dated, and mailed this the 1st day of May, 2012.

TEXAS BOARD OF NURSING



By:

Katherine A. Thomas

Katherine A. Thomas, MN, RN, FAAN
Executive Director

In the Matter of Permanent License	§	BEFORE THE TEXAS
Number 150850, Issued to	§	
MICHELLE R. BOGUE, Respondent	§	BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MICHELLE R. BOGUE, is a Vocational Nurse holding license number 150850, which is in current 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 December 12, 2009 through August 27, 2010, while employed as a Licensed Vocational Nurse with the Bone and Joint Clinic of Houston, Houston, Texas, Respondent obtained Soma from Kroger Pharmacy, Pearland, Texas, through the use of a fraudulent oral or telephonically communicated prescriptions, as follows:

Fill Date	Drug Name	Quantity	Prescriber
12/12/09	Soma (Carisoprodol)	90	William Granberry
1/12/10	Soma (Carisoprodol)	90	William Granberry
2/5/10	Soma (Carisoprodol)	120	William Granberry
3/12/10	Soma (Carisoprodol)	120	William Granberry
4/21/10	Soma (Carisoprodol)	60	William Granberry
5/5/10	Soma (Carisoprodol)	60	William Granberry
5/19/10	Soma (Carisoprodol)	60	William Granberry
5/31/10	Soma (Carisoprodol)	60	William Granberry
6/16/10	Soma (Carisoprodol)	120	William Granberry
7/11/10	Soma (Carisoprodol)	120	William Granberry

Additionally, Respondent admitted to calling in prescriptions for personal pain management. Respondent's conduct was likely to deceive the pharmacy and possession of Soma through use of an unauthorized, fraudulent, telephonically communicated prescription is prohibited by Chapter 483 (Dangerous Drug Act) of the Texas Health and Safety Code.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(1)(A),(4),(10)(E)&(11)(B).

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license 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.state.tx.us.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses, for Lying and Falsification, for Fraud, Theft & Deception, which can be found at the Board's website, www.bon.state.tx.us.

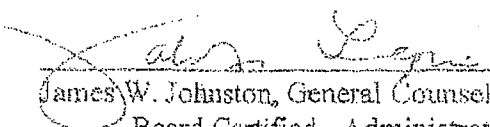
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NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at www.bon.state.tx.us/disciplinaryaction/discp-matrix.html.

Filed this 2nd day of September, 2011.

TEXAS BOARD OF NURSING


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