



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. Plummer*  
Executive Director of the Board

IN THE MATTER OF PERMANENT §  
REGISTERED NURSE LICENSE §  
NUMBER 459280 ISSUED TO §  
PENNY PERKINS §

BEFORE THE TEXAS  
BOARD OF NURSING  
ELIGIBILITY AND  
DISCIPLINARY COMMITTEE

**ORDER OF THE BOARD**

TO: Penny Perkins  
3839 N. Braeswood #5  
Houston, TX 77025

During open meeting held in Austin, Texas, on March 19, 2013, the Texas Board of Nursing 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 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(s) to practice 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 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 Registered Nurse License Number 459280, previously issued to PENNY PERKINS, to practice nursing in the State of Texas be, and the same is/are hereby, REVOKED.

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

Entered this 19th day of March, 2013.

TEXAS BOARD OF NURSING

BY:



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

Attachment: Formal Charge filed October 1, 2012.

Re: Permanent Registered Nurse License Number 459280  
Issued to PENNY PERKINS  
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 25<sup>m</sup> day of March, 2013, a true and correct copy of the foregoing

DEFAULT ORDER was served and addressed to the following person(s), as follows:

Via USPS Certified Mail, Return Receipt Requested

Penny Perkins  
3839 N. Braeswood #5  
Houston, TX 77025

Via USPS First Class Mail

Penny Perkins  
777 E. Harmon, Apt. 8  
Las Vegas, Nevada 89119

BY:



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

In the Matter of Permanent Registered § BEFORE THE TEXAS  
Nurse License Number 459280 §  
Issued to PENNY PERKINS, §  
Respondent § BOARD OF NURSING

### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, PENNY PERKINS, is a Registered Nurse holding License Number 459280 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 June 20, 2011, Respondent received a Default Decision and Order issued by the Board of Registered Nursing, State of California wherein Respondent's license to practice professional nursing in the State of California was Revoked. A copy of the Default Decision and Order issued by the Board of Registered Nursing, State of California, dated June 20, 2011, is attached and incorporated by reference as part of this charge.

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

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).

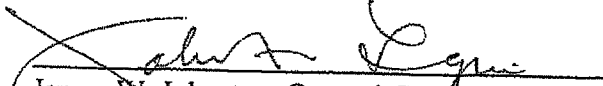
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

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](http://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(s) which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Default Decision and Order issued by the Board of Registered Nursing, State of California, dated June 20, 2011.

Filed this 1st day of October, 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

John R. Griffith, Assistant General Counsel  
State Bar No. 24079751

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) 305-6811  
F: (512) 305-8101 or (512)305-7401

Attachments: Default Decision and Order issued by the Board of Registered Nursing, State of California, dated June 20, 2011.

D/2012.06.19

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**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**PENNY PERKINS**  
Las Vegas, NV 89119

Registered Nurse License No. 192219

RESPONDENT

Case No. 2011-413

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

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FINDINGS OF FACT

1. On or about December 30, 2010, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2011-413 against Penny Perkins (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about September 30, 1968, the Board of Registered Nursing (Board) issued Registered Nurse License No. 192219 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on June 30, 2010 and has not been renewed.

3. On or about December 30, 2010, Respondent was served by Certified and First Class Mail a copies of the Accusation No. 2011-413, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section

1 124.

2 5. The Certified Mail Receipt signed by Respondent was returned to our office indicating  
3 a delivery date of January 3, 2011.

4 6. Business and Professions Code section 2764 states:

5 The lapsing or suspension of a license by operation of law or by order or decision of  
6 the board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive  
7 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding  
8 against such license, or to render a decision suspending or revoking such license.

9 7. Government Code section 11506 states, in pertinent part:

10 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a  
11 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation  
12 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's  
13 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

14 8. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2011-  
16 413.

17 9. California Government Code section 11520 states, in pertinent part:

18 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the  
19 agency may take action based upon the respondent's express admissions or upon other evidence  
20 and affidavits may be used as evidence without any notice to respondent.

21 10. Pursuant to its authority under Government Code section 11520, the Board after having  
22 reviewed the proof of service dated December 30, 2010, signed by Kami Pratab, and the signed  
23 Certified Mail Receipt was returned to our office indicating a delivery date of January 3, 2011  
24 finds Respondent is in default. The Board will take action without further hearing and, based on  
25 Accusation No. 2011-413 and the documents contained in Default Decision Investigatory  
26 Evidence Packet in this matter which includes:

27 Exhibit 1: Pleadings offered for jurisdictional purposes;

1 Exhibit 2: License History Certification for Penny Perkins, Registered Nurse License  
2 No. 192219;

3 Exhibit 3: Certification of costs by Board for investigation and enforcement in Case  
4 No. 2011-413;

5 Exhibit 4: Declaration of costs by Office of the Attorney General for prosecution of  
6 Case No. 2011-413;

7 Exhibit 5: Affidavit of Kelly McHan and Jeff Ramos;

8 and finds that the charges and allegations in Accusation No. 2011-413 are separately and  
9 severally true and correct by clear and convincing evidence.

10 11. Taking official notice of the Certification of Board Costs and the Declaration of Costs  
11 by the Office of the Attorney General contained in the Default Decision Investigatory Evidence  
12 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that  
13 the reasonable costs for Investigation and Enforcement in connection with the Accusation are  
14 \$4,282.75 as of March 15, 2011.

15 DETERMINATION OF ISSUES

16 1. Based on the foregoing findings of fact, Respondent Penny Perkins has subjected her  
17 following licenses to discipline:

18 a. Registered Nurse License No. 192219

19 2. The agency has jurisdiction to adjudicate this case by default.

20 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered  
21 Nurse License based upon the following violations alleged in the Accusation, which are  
22 supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this  
23 case.

24 a. Violation of Business and Professions Code section 2761(a)(1) -  
25 Unprofessional Conduct, Gross Negligence.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 192219, heretofore issued to Respondent Penny Perkins, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on June 20, 2011.

It is so ORDERED May 20, 2011.



JEANNINE K. GRAVES  
President  
Board of Registered Nursing  
Department of Consumer Affairs

Attachment:

Exhibit A: Accusation No. 2011-413

# Exhibit A

Accusation No. 2011-413

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 LESLIE E. BRAST  
Deputy Attorney General  
4 State Bar No. 203296  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5548  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2011-413

11 **PENNY PERKINS**  
12 Las Vegas, Nevada 89119

**ACCUSATION**

13 Registered Nurse License No. 192219

14 Respondent.

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Accusation solely in her  
19 official capacity as the Executive Officer of the Board of Registered Nursing (Board),  
20 Department of Consumer Affairs.

21 2. On or about September 30, 1968, the Board issued Registered Nurse License Number  
22 192219 to Penny Perkins (Respondent). The license was in full force and effect at all times  
23 relevant to the charges brought herein; it expired on June 30, 2010, and has not been renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board under the authority of the following  
26 laws. All section references are to the Business and Professions Code (Code) unless otherwise  
27 indicated.

28 ///



1 sciences in applying the nursing process, as follows:

2 "(1) Formulates a nursing diagnosis through observation of the client's physical condition  
3 and behavior, and through interpretation of information obtained from the client and others,  
4 including the health team.

5 "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and  
6 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and  
7 for disease prevention and restorative measures.

8 "(3) Performs skills essential to the kind of nursing action to be taken, explains the health  
9 treatment to the client and family and teaches the client and family how to care for the client's  
10 health needs.

11 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the  
12 subordinates and on the preparation and capability needed in the tasks to be delegated, and  
13 effectively supervises nursing care being given by subordinates.

14 "(5) Evaluates the effectiveness of the care plan through observation of the client's physical  
15 condition and behavior, signs and symptoms of illness, and reactions to treatment and through  
16 communication with the client and health team members, and modifies the plan as needed.

17 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve  
18 health care or to change decisions or activities which are against the interests or wishes of the  
19 client, and by giving the client the opportunity to make informed decisions about health care  
20 before it is provided."

21 COST RECOVERY

22 10. Code section 125.3 provides, in pertinent part, that the Board may request the  
23 administrative law judge to direct a licensee found to have committed a violation or violations of  
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
25 enforcement of the case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence and/or Incompetence)

3 11. Respondent is subject to disciplinary action pursuant to Code section 2761,  
4 subdivision (a)(1), for gross negligence and/or incompetence in the practice of nursing in that she  
5 claims her actions or failures to act were responsible for the deaths of two patients in her care  
6 while she worked as an intensive care nurse at two Los Angeles hospitals between about 1969  
7 and the early 1970s. The circumstances are as follows:

8 a. Los Angeles County General Hospital

9 While working as a registered nurse in the Surgical Intensive Care Unit of Los Angeles  
10 County General Hospital in 1969 or 1970, Respondent undertook the care of LG,<sup>1</sup> a young  
11 woman in extremely critical condition as a result of a car accident. LG was comatose,  
12 unresponsive, and on life support, including a respirator attached to a tracheostomy through  
13 which LG received oxygen. Respondent, who was caring for LG alone, noticed LG's oxygen  
14 tank was running low. Respondent did not call for a replacement or otherwise bring the low tank  
15 to anyone's attention. Respondent left LG alone to take a cigarette break. While she was gone,  
16 the tank ran out of oxygen and the respirator stopped cycling, depriving LG of oxygen. When  
17 Respondent returned to the unit a few minutes later, she saw an intern at LG's bedside. He had  
18 removed LG's tracheostomy tube in the apparent belief that it was blocked. Respondent  
19 explained that LG's tank ran out of air. No resuscitation efforts were made and LG expired. In  
20 the aftermath of LG's death, Respondent lied to LG's husband about what had occurred and  
21 failed to complete an incident report or otherwise accurately report her role in LG's death.

22 b. Mt. Sinai Hospital<sup>2</sup>

23 While working as a registered nurse in the Intensive Care Unit of Mt. Sinai Hospital in the  
24 early 1970s, Respondent undertook the care of ML, an elderly man in an unresponsive coma and  
25 on life support, including a respirator. ML required frequent suctioning of his lungs through his

26 <sup>1</sup> Initials are used to protect patient privacy; full patient names will be provided upon  
27 request during discovery.

28 <sup>2</sup> Currently known as Cedars-Sinai Medical Center.

1 tracheostomy. After one such suctioning, Respondent left the room and forgot to reconnect the  
2 respirator to ML's tracheostomy. She had previously turned off the respirator alarm. Shortly  
3 thereafter, a telemetry nurse who was monitoring ML notified Respondent and her charge nurse  
4 that something was wrong with ML's heart. Returning to ML's room, Respondent observed the  
5 respirator connection lying on ML's chest where she had left it unattached to his tracheostomy  
6 tube after suctioning him. She reconnected the respirator to ML's tracheostomy but the telemetry  
7 nurse instructed her to disconnect it. Believing the respirator was interfering with the telemetry  
8 readings, Respondent complied. ML expired and no resuscitation efforts were made. In the  
9 aftermath of ML's death, Respondent told her charge nurse that ML was off the respirator when  
10 Respondent returned to his room but the charge nurse did not reply. Respondent made no further  
11 effort to explain what had occurred and failed to complete an incident report or otherwise  
12 accurately report her role in ML's death.

13 PRAYER

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Board of Registered Nursing issue a decision:

- 16 1. Revoking or suspending Registered Nurse License Number 192219 issued to Penny  
17 Perkins;
- 18 2. Ordering Penny Perkins to pay the Board of Registered Nursing the reasonable costs  
19 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
20 section 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.

22  
23 DATED: 12/30/10

*Louise R. Bailey*  
24 LOUISE R. BAILEY, M.ED., RN  
25 ~~Interim~~ Executive Officer  
26 Board of Registered Nursing  
27 Department of Consumer Affairs  
28 State of California  
Complainant

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