

IN THE MATTER OF PERMANENT §  
VOCATIONAL NURSE LICENSE §  
NUMBER 159991 ISSUED TO §  
KATHLEEN ANN MALDONADO §

BEFORE THE TEXAS  
BOARD OF NURSING  
ELIGIBILITY AND  
DISCIPLINARY COMMITTEE



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.  
*Kathleen A. Maldonado*  
Executive Director of the Board

**ORDER OF THE BOARD**

TO: Kathleen Ann Maldonado  
9317 Mars Ave.  
Corpus Christi, TX 78409

During open meeting held in Austin, Texas, on August 6, 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.

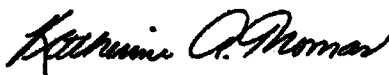
NOW, THEREFORE, IT IS ORDERED Permanent Vocational Nurse License Number 159991, previously issued to KATHLEEN ANN MALDONADO, to practice nursing in the State of Texas be, and the same is/are hereby, REVOKED.

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 6th day of August, 2013.

TEXAS BOARD OF NURSING

BY:



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

Attachment: Formal Charge filed March 22, 2013.

Re: Permanent Vocational Nurse License Number 159991  
Issued to KATHLEEN ANN MALDONADO  
DEFAULT ORDER - REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 9<sup>th</sup> day of August, 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

Kathleen Ann Maldonado  
9317 Mars Ave.  
Corpus Christi, TX 78409

Via USPS First Class Mail

Kathleen Ann Maldonado  
7550 Bannock  
Denver, CO 80021

BY:



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

In the Matter of Permanent § BEFORE THE TEXAS  
Vocational Nurse License §  
Number 159991 Issued to §  
KATHLEEN ANN MALDONADO, §  
Respondent § BOARD OF NURSING

### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, KATHLEEN ANN MALDONADO, is a Vocational Nurse holding License Number 159991, 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 December 29, 1999, Respondent received a Final Agency Order from the Colorado State Board of Nursing wherein Respondent's license to practice practical nursing in the State of Colorado was Revoked by Default for failure to answer to allegations of patient abuse. A copy of the Final Agency Order issued by the Colorado State Board of Nursing, dated December 29, 1999, 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).

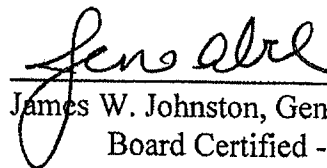
NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.texas.gov](http://www.bon.texas.gov).

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: Final Agency Order issued by the Colorado State Board of Nursing, dated December 29, 1999.

Filed this 22nd day of March, 2013.

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: Final Agency Order issued by the Colorado State Board of Nursing, dated December 29, 1999.

D/2012.06.19

BEFORE THE STATE BOARD OF NURSING

STATE OF COLORADO

Case No. NB 99-38



I do hereby certify the foregoing to be a true copy of the document which is on file or is of record in my office

*Charles K. Dwyer*  
Authorized Signature

*6/1/02*

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**FINAL AGENCY ORDER**

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IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE LICENSE TO PRACTICE PRACTICAL NURSING AND CERTIFICATE TO PRACTICE AS A NURSE AIDE IN THE STATE OF COLORADO OF KATHLEEN MALDONADO, LPN, LICENSE NO. 33527,

Respondent.

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The Colorado State Board of Nursing (the "Board"), pursuant to and after formal proceedings before a duly qualified Administrative Law Judge ("ALJ") in accordance with the provisions of the Nurse Practice Act and the Administrative Procedure Act, and having reviewed the ALJ's Initial Decision, hereby enters the following findings and order:

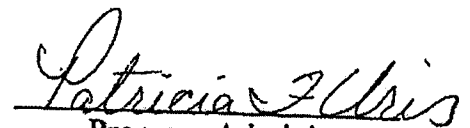
1. Kathleen Maldonado, LPN ("Respondent") was served with a Notice of Duty to Answer, Notice to Set, Notice of Hearing, Notice of Charges, and Option to Engage in Alternative Dispute Resolution on September 15, 1999, to all last known addresses on file with the Board.
2. A disciplinary hearing by default was held pursuant to § § 12-38-108, 117, and 120, C.R.S. (1998) and § § 24-4-104 and 105, C.R.S. (1998) before ALJ Robert J. Erickson.
3. The Initial Decision was rendered on November 19, 1999, and transmitted to the Board. The Initial Decision is incorporated herein by reference.
4. The Initial Decision was served on the respondent and the Board's counsel on November 24, 1999.
5. Exceptions to the Initial Decision were due on or before December 24, 1999.
6. As of December 27, 1999, no exceptions were filed by either party with the Board office.

7. Pursuant to § 24-4-105(14), C.R.S. (1998), and policy of the Board, the Initial Decision of the ALJ has become the final order of the agency.

IT IS THEREFORE ORDERED by the Board, based upon the above findings, that: The license to practice practical nursing and the certificate to practice as a nurse aide of Kathleen Maldonado are hereby revoked.

DATED this 29<sup>th</sup> day of December, 1999.

BY THE BOARD OF NURSING:

  
Program Administrator

BEFORE THE STATE BOARD OF NURSING  
STATE OF COLORADO

CASE NO. NB 99-38

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INITIAL DECISION

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IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE LICENSE TO  
PRACTICE PRACTICAL NURSING AND CERTIFICATE TO PRACTICE AS A NURSE  
AIDE IN THE STATE OF COLORADO OF KATHLEEN MALDONADO, LPN,

Respondent.

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This case involves a disciplinary proceeding before the Colorado State Board of Nursing ("Board") regarding the license of Respondent, Kathleen Maldonado, to practice as a licensed practical nurse and certification of the Respondent as a nurse aide. Gayle D. Fidler, Assistant Attorney General, represented the Board. Based upon the Respondent's failure to file a timely answer in this matter, an Entry of Default was issued on November 5, 1999. Respondent then had ten days to show good cause why the default should be set aside. Section 24-4-105(2)(b), C.R.S. (1999). No motion to set aside the default was filed, and this matter became ready for a decision on November 18, 1999.

FINDINGS OF FACT

1. The last address furnished by Respondent to the Board is 7550 Bannock, Denver, CO 80021.
2. The Notice of Duty to Answer, Notice to Set, Notice of Hearing, Notice of Charges and Notice of Option to Engage in Alternative Dispute Resolution and the matters of fact and law asserted were mailed on September 15, 1999, to Respondent by first class mail at the above address, and to other addresses provided by Respondent to counsel for the Board:
3. The Board's Motion for Entry of Default was mailed to Respondent by first class mail to the above addresses on October 18, 1999.
4. Respondent was notified of the consequences of failure to file a written answer in the Notice of Charges.
5. Respondent did not file a written answer.



6. ALJ Robert J. Erickson's Entry of Default was mailed to Respondent by first class mail to the above addresses on November 5, 1999. The Respondent did not file a motion to set aside the Entry of Default.
7. The Respondent was a graduate practical nurse in the State of Colorado, being issued license number 12947, in March 1996. The license expired May 28, 1996. Respondent was licensed to practice as a practical nurse on or about August 26, 1996. That license expired on June 30, 1998.
8. Respondent was an applicant for certification as a nurse aide in Colorado, requesting certification by endorsement from Florida on or about November 3, 1995. Respondent never obtained certification as a nurse aide in the State of Colorado.
9. Respondent was employed by Elms Haven Care Center ("Elms Haven") in Thornton, Colorado, from about April 1, 1996 to July 22, 1996.
10. While employed by Elms Haven, Respondent had in her care a 74-year-old female patient identified as FC. FC had been diagnosed with diverticulitis colon without hemorrhage, degenerative joint disease, arthritis, fractured hip, organic brain syndrome, cellulitis of the leg, malnutrition, chronic UTI, and permanent urinary incontinence. FC had both short and long-term memory deficits and was verbally and physically abusive to others.
11. On or about May 13, 1996, while Respondent was attempting to get FC out of her bed, FC became combative and slapped Respondent. Respondent then slapped FC on the cheek and called her names such as, "you dirty bitch," or words to that effect.
12. When Respondent was questioned by another CNA about her actions, she stated, "she knows better than to hit me," or words to that effect.
13. After she was in her wheelchair, FC refused to place her foot in the footrest. Respondent then slapped FC on the leg and forcefully put FC's foot in the footrest.
14. FC continued to be combative and called Respondent a "cock sucker," or words to that effect. Respondent replied that she did not do that kind of thing and that FC was the one who was a "slut," or words to that effect.
15. Respondent willfully or negligently acted in a manner inconsistent with the health or safety of FC, a person under Respondent's care.
16. Respondent's conduct at Elms Haven failed to meet generally accepted standards for practice as a practical nurse and as a certified nurse aide.

17. Respondent abused, neglected, or otherwise harmed FC, a person under Respondent's care.

18. Respondent also had in her care at Elms Haven a resident identified as TH, a 76-year-old female with diagnoses including CVA with right hemiparesis, gastritis, anemia, fistula, Alzheimer's with depression, and both short and long-term memory deficits. TH also had documented behavior of "repeatedly pulling off colostomy bag."

19. On or about May 13, 1996, after the incident with FC, Respondent also cared for TH. TH had removed her colostomy bag and her lap was full of feces. When another CNA asked TH why she removed her colostomy bag, Respondent answered, "because [TH] is a disgusting bitch," or words to that effect.

20. As they were cleaning TH, Respondent sprayed peri wash on TH's hands and into her eye. When TH asked why Respondent sprayed her in the eye, Respondent replied that it was an accident, "just like [TH] playing with her BM," or words to that effect.

21. Respondent's actions failed to meet the generally accepted standards of practice for practical nursing and for practice as a certified nurse aide. Respondent failed to treat TH with dignity and respect.

22. Respondent willfully or negligently acted in a manner inconsistent with the health and safety of TH, a person under Respondent's care.

23. Respondent abused, neglected, or otherwise harmed TH, a person under Respondent's care.

24. On or about July 20, 1996, Respondent had in her care a 79-year-old resident of Elms Haven identified as EN. EN diagnoses included Alzheimer's dementia, paranoia, old MI, osteoarthritis, status post fracture of right hip, cataract extraction, atrophic vaginitis, and both short and long-term memory deficits.

25. On or about July 20, 1996, Respondent was in the dining room with EN. EN was playing with her food and the food of others. Respondent pushed EN, in her dining room chair, away from the table and into a wall, and stated, "You go to hell, don't eat if you don't want to," or words to that effect.

26. Respondent willfully or negligently acted in a manner inconsistent with the health and safety of EN, a person under Respondent's care.

27. Respondent's conduct failed to meet generally accepted standards for practice as a practical nurse and as a certified nurse aide.

28. Respondent abused, neglected or otherwise harmed EN, a person under Respondent's care.

29. Respondent was employed as a certified nurse aide at Columbia North Suburban from about October 13, 1995 to March 6, 1996, over four and one-half months.

30. Respondent's reason for leaving Columbia North Suburban was that her CNA "license" had expired.

31. Respondent was then employed at Elms Haven as a graduate practical nurse from about April 1, 1996 to April 22, 1996, at which time her position status was changed to CNA.

32. At no time after March 1996, did Respondent have a valid certificate to practice as a nurse aide in Colorado.

33. Respondent continued to work at Elms haven until about July 22, 1996, when she was terminated.

34. A "counseling" form completed as a result of the incident with EN on July 20, 1996, lists Respondent's position as CNA/GPN.

35. In July 1996, Respondent did not have a valid GPN license or a valid CNA certificate.

36. Respondent was not licensed as a practical nurse until August 26, 1996.

37. Respondent practiced as a CNA beyond the four-month "grace-period" allowed under § 12-38.1-117(d), C.R.S. (1995).

### CONCLUSIONS OF LAW

1. Respondent has received timely notice of the time, place and nature of this proceeding; of all matters of fact and law asserted; and of all matters required by Section 24-4-105(2)(a), C.R.S. (1999), in the manner required by that section.

2. The Board has jurisdiction over Respondent, over her licensure as a practical nurse, and over her certification as a nurse aide.

3. Respondent is subject to discipline pursuant to Section 12-38-117 (1)(c) and (f), C.R.S. (1995), in that she willfully practiced as a practical nurse in a manner which failed to meet generally accepted standards for such practice during her care of FC, TH and EN.

4. Respondent is subject to discipline pursuant to Section 12-38.1-111(1)(c), (f), and (h), C.R.S. (1995), in that she willfully practiced as a nurse aide in a manner which failed to meet generally accepted standards for such practice during her care of FC, TH and EN.

5. By working at Elms Haven from March 1996 to July 22, 1996, Respondent violated provisions of the Nurse Aide Practice Act, practiced as a nurse aide in a manner which failed to meet generally accepted standards for such practice, unlawfully practiced in a medical facility as a nurse aide when not so certified, and unlawfully used the designation of Certified Nurse Aide in connection with her name which tended to imply that she was a certified nurse aide when she was not so certified, in violation of Section 12-38.1-111(1)(e) and (f), and Section 12-38.1-118(a) and (b), C.R.S. (1995).

6. By working at Elms Haven from March 1996 to July 22, 1996, Respondent violated provisions of the Nurse Practice Act, practiced as a practical nurse in a manner which failed to meet generally accepted standards for such practice, unlawfully practiced as a practical nurse when not so licensed, and unlawfully used the designation of licensed practical nurse in connection with her name which tended to imply that she was a practical nurse when she was not so licensed, in violation of Section 12-38-123(a), C.R.S. (1995).

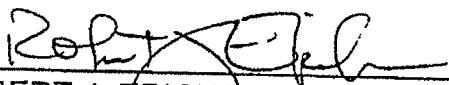
#### INITIAL DECISION

When the Board has proven that a license holder has violated the license law, it may impose discipline in the form of a probation, suspension or revocation of the license, a letter of admonition, or a letter of concern. Section 12-38-116.5, C.R.S. (1999). The Board seeks the revocation of Respondent's practical nursing license. Respondent failed to file an Answer and did not present any mitigating factors. There is no information before the Administrative Law Judge indicating that some sanction other than revocation of Respondent's license is appropriate in this case. The Respondent's failure to appear demonstrates a lack of interest in maintaining her license in Colorado. It is therefore the Initial Decision of the Administrative Law Judge that Respondent's license to practice as a practical nurse is revoked.

The setting conference scheduled for November 26, 1999, is vacated.

**DONE AND SIGNED**

November 19, 1999.

  
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ROBERT J. ERICKSON  
Administrative Law Judge