



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

DOCKET NUMBER 507-13-3985

IN THE MATTER OF § BEFORE THE STATE OFFICE
PERMANENT CERTIFICATE §
NUMBER 161252 §
ISSUED TO §
JENNIFER HOPE BERGERON § OF
ADMINISTRATIVE HEARINGS

OPINION AND ORDER OF THE BOARD

TO: JENNIFER HOPE BERGERON
4601 NASA 1, #317D
SEABROOK, TX 77586

CATHERINE C. EGAN
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET,
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on October 17-18, 2013, the Texas Board of Nursing (Board) considered the following items: (1) Order Number 2, *Dismissing Case*, issued by the 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 June 17, 2013, 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 June 17, 2013, 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 and issued Order No. 2, granting Staff's Motion for Default and dismissing the case from the docket of 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 2, *Dismissing Case*, issued by the ALJ in the above cited matter, 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 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 §213.22. 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 §213.23(l), as applicable. 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 161252, previously issued to JENNIFER HOPE BERGERON, 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.

FURTHER, pursuant to the Occupations Code §301.467, RESPONDENT is not eligible to petition for reinstatement of licensure until at least one (1) year has elapsed from the date of this Order. Further, upon petitioning for reinstatement, RESPONDENT must satisfy all then existing requirements for relicensure.

Entered this 18th day of October, 2013.

TEXAS BOARD OF NURSING


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

Attachment: Formal Charges

In the Matter of § BEFORE THE TEXAS
Permanent Vocational Nurse §
License Number 161252 §
Issued to JENNIFER HOPE BERGERON, §
Respondent § BOARD OF NURSING

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, JENNIFER HOPE BERGERON, is a and Registered Nurse holding License Number 0 which is in status at the time of this pleading, and is a Vocational Nurse holding License Number 161252, which is in 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 March 27, 2013, Respondent became noncompliant with the Agreed Order issued to her by the Texas Board of Nursing on December 27, 2012. Noncompliance is the result of Respondent's failure to enroll into the Texas Peer Assistance Program for Nurses (TPAPN). Stipulation Number One (1) of the Agreed Order dated December 27, 2012, states:

"(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) payable to TPAPN."

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(1) & (10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(9).

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.

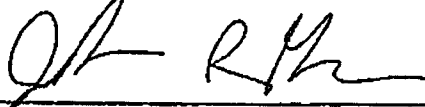
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, which can be found at the Board's website, www.bon.texas.gov.

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.

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: Order dated December 27, 2012.

Filed this 26th day of April, 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: Order of the Board dated December 27, 2012.
D2012.06.19

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	AGREED
Vocational Nurse License Number 161252	§	
issued to JENNIFER HOPE BERGERON	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JENNIFER HOPE BERGERON, Vocational Nurse License Number 161252, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(2), (3), (9) & (10) and 301.453, Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on October 15, 2012.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on 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 representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Lamar University, Port Arthur, Texas on December 20, 1996. Respondent was licensed to practice vocational nursing in the State of Texas on January 27, 1997.
5. Respondent's vocational nursing employment history includes:

01/2012 - 05/2012	LVN	Magnolia Manor Groves, Texas
06/2012 - present	Unknown	

6. At the time of the incident, Respondent was employed as a vocational nurse with Magnolia Manor, Groves, Texas, and had been in this position for approximately four (4) months.
7. On or about October 8, 2007, Respondent plead GUILTY to the offense of POSSESSION OF A CONTROLLED SUBSTANCE, a Class A Misdemeanor (committed on or about February 7, 2005) in the County Court at Law No. 3 of Jefferson County, Texas, under Cause Number 267520. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on community supervision for a term of one (1) year.
8. On or about April 11, 2010, Respondent submitted a renewal application to the Texas Board of Nursing 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:

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 or guilty?

Respondent failed to disclose that on or about October 8, 2007, she plead GUILTY to the offense of POSSESSION OF A CONTROLLED SUBSTANCE, a Class A Misdemeanor (committed on or about February 7, 2005) in the County Court at Law #3 of Jefferson County, Texas, under Cause Number 267520. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on community supervision for a term of one (1) year.

9. On or about June 1, 2012, while employed with Magnolia Manor, Groves, Texas, Respondent misappropriated Hydrocodone belonging to the facility and patients thereof, in that Respondent admitted to such diversion. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.
10. On or about June 1, 2012, while employed with Magnolia Manor, Groves, Texas, Respondent engaged in the imtemperate use of Opiates and Oxycodone in that she submitted a specimen for a drug screen which resulted positive for Opiates and Oxycodone. Respondent also admitted to ingesting ten (10) Hydrocodone during her shift. Unlawful possession of Opiates and Oxycodone is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Opiates and Oxycodone by a Registered Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

11. Regarding the conduct outlined in Finding of Fact Number Seven (7), Respondent states that she plead no contest and received probation for one year. Respondent states that she was going through a very hard time in her life. Respondent states that she had been ill for a few years without any diagnosis and on the day of the incident she was seeing a new M.D. Respondent states that she left the appointment feeling helpless and exhausted. Respondent further states that she wrote a prescription to herself and dropped it at the pharmacy and within a few seconds she realized this was wrong. Respondent states that she never picked up the prescription but it was too late. Regarding the conduct outlined in Finding of Fact Number Eight (8), Respondent states that when she submitted her renewal form she was not trying to provide false information. Respondent states that she thought that she was in compliance because it had been over 24 months. Regarding the conduct outlined in Finding of Fact Number Nine (9), Respondent states that she is guilty of misappropriation use of hydrocodone belonging to the facility. Regarding the conduct outlined in Finding of Fact Number Ten (10), Respondent states that the night of the incident she ingested 3 of the 10 hydrocodone from the facility due to severe pain in back and cellulitis that she had for several months and needed to follow up for further treatment. Respondent states that she was not trying to defraud the facility. Respondent states that she was informed a positive for oxycodone was present but she has never taken oxycodone before. Respondent states that she regrets the decisions that she's made and will continue to provide care to the best of her ability and never compromise her patients or herself. Respondent further states that she feels these last several months the changes that she's made allow her to be a better nurse.
12. The Respondent's conduct as described in the preceding Finding(s) of Fact was reportable under the provisions of Sections 301.401-301.419, Texas Occupations Code.
13. 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.
14. Formal Charges were filed on September 12, 2012.
15. Formal Charges were mailed to Respondent on September 13, 2012.
16. Respondent's conduct as described in the preceding Finding(s) of Fact resulted from or was significantly influenced by Respondent's substance use.
17. Respondent's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.455, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.12(4), (5), (6)(G), (8), (10)(A), (10)(D), (11)(B) & (13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2), (3), (9) & (10), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 161252, heretofore issued to JENNIFER HOPE BERGERON, including revocation of Respondent's license(s) to practice nursing in the State of Texas.
5. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

ORDER

IT IS THEREFORE AGREED and ORDERED that RESPONDENT, in lieu of the sanction of Revocation under Section 301.453, Texas Occupations Code, SHALL comply with the following conditions for such a time as is required for RESPONDENT to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(1) RESPONDENT SHALL, within forty-five (45) days following the date of entry of this final Order, apply to TPAPN and SHALL, within ninety (90) days following the date of entry of this final Order, sign and execute the TPAPN participation agreement, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars (\$350.00) payable to TPAPN.

(2) Upon acceptance into the TPAPN, RESPONDENT SHALL waive confidentiality and provide a copy of the executed TPAPN participation agreement to the Texas Board of Nursing.

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

(4) RESPONDENT SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN participation agreement.

IT IS FURTHER AGREED and ORDERED, RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, Section §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

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.

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED, SHOULD RESPONDENT fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

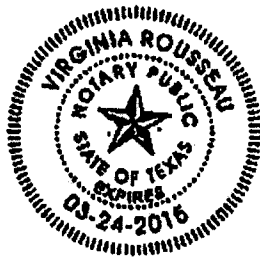
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of the allegations through peer assistance and to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes effective upon acceptance by the Executive Director on behalf of the Texas Board of Nursing, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 21 day of Dec, 2012.


JENNIFER HOPE BERGERON, RESPONDENT

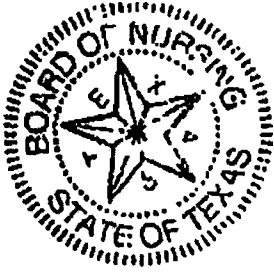
Sworn to and subscribed before me this 21 day of Dec, 2012.

SEAL




Notary Public in and for the State of Texas

WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Order that was signed on the 21st day of December, 2012, by JENNIFER HOPE BERGERON, Vocational Nurse License Number 161252, and said Order is final.



Entered and effective this 27th day of December, 2012.

Katherine A. Thomas

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