



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 507-14-2658

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBER 218903
ISSUED TO
MISTY BRIANNE FLOWERS

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BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

OPINION AND ORDER OF THE BOARD

TO: MISTY BRIANNE FLOWERS
SG 25 LAKE CHEROKEE
HENDERSON, TX 75652

6711 E US HWY 80, LOT 18
LONGVIEW, TX 75605-6460

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

At the regularly scheduled public meeting on July 17-18, 2014, the Texas Board of Nursing (Board) considered the following items: (1) Order Number 1, *Order 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 May 27, 2014, 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 27, 2014, 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. 1, 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 1, *Order 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 First Amended 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 First Amended 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 First Amended 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 First Amended 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.

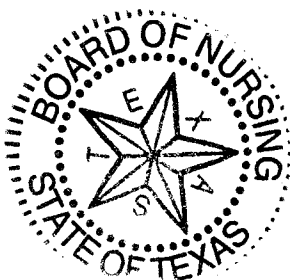
IT IS, THEREFORE, ORDERED THAT Permanent Certificate Number 218903, previously issued to MISTY BRIANNE FLOWERS, to practice nursing in the State of Texas be, and the same is hereby, REVOKED.


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.

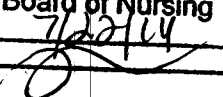
Entered this 17th day of July, 2014.

TEXAS BOARD OF NURSING




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

Attachment: First Amended Formal Charges

I certify this to be a true copy
of the records on file with the
Texas Board of Nursing
Date: 7/22/14
Signed: 

TEXAS BOARD OF NURSING

In the Matter of Permanent

Certificate Number 218903

Issued to **MISTY BRIANNE FLOWERS**

NOTICE OF HEARING

SOAH Docket No. 507-14-2658

Respondent: Misty Brianne Flowers
SG25 Lake Cherokee
Henderson, Texas 75652

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 **27th day of May, 2014, at 9 a.m.**, at the **State Office of Administrative Hearings, William P. Clements Building, 300 West 15th Street, 4th Floor, Austin, Texas, 78701**, regarding First Amended Formal Charges previously filed and served upon you by the Texas Board of Nursing. The First Amended 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 I 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 First Amended 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 FIRST AMENDED FORMAL CHARGES WITHIN TWENTY (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.

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 FIRST AMENDED FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT.

If it is determined that the First Amended 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 21st day of March, 2014.



TEXAS BOARD OF NURSING

By:

A handwritten signature in cursive script that reads "Katherine A. Thomas". The signature is written in black ink and is positioned above a horizontal line.

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

In the Matter of
 Permanent Vocational Nurse
 License Number 218903
 Issued to MISTY BRIANNE FLOWERS,
 Respondent

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BEFORE THE TEXAS
 BOARD OF NURSING

FIRST AMENDED FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, MISTY BRIANNE FLOWERS, is a Vocational Nurse holding License Number 218903, 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 November 14, 2012, through November 16, 2012, while employed with CrestCare Nursing and Rehabilitation, Longview, Texas, Respondent signed out Hydrocodone on the facility's Individual Controlled Drug Records for residents, but failed to document, or accurately and completely document, the administration of the medications in the patients' Medication Administration Record (MAR), as follows:

Date	Resident	Physician's Order	Individual Control Drug Record Time and Quantity	MAR	Wastage
11-14-12	BL	Hydrocodone/Apap 5/325mg 1 tab po q4h prn	Hydrocodone/Apap 5/325mg 1400 1 tablet	Not Documented	Not Documented
11-14-12	BL	Hydrocodone/Apap 5/325mg 1 tab po q4h prn	Hydrocodone/Apap 5/325mg 1800 1 tablet	Not Documented	Not Documented
11-14-12	BL	Hydrocodone/Apap 5/325mg 1 tab po q4h prn	Hydrocodone/Apap 5/325mg 2200 1 tablet	Not Documented	Not Documented
11-15-12	BL	Hydrocodone/Apap 5/325mg 1 tab po q4h prn	Hydrocodone/Apap 5/325mg 1400 1 tablet	Not Documented	Not Documented
11-15-12	BL	Hydrocodone/Apap 5/325mg 1 tab po q4h prn	Hydrocodone/Apap 5/325mg 1800 1 tablet	Not Documented	Not Documented
11-15-12	BL	Hydrocodone/Apap 5/325mg 1 tab po q4h prn	Hydrocodone/Apap 5/325mg 2200 1 tablet	Not Documented	Not Documented

11-16-12	BL	Hydrocodone/Apap 5/325mg 1 tab po q4h prn	Hydrocodone/Apap 5/325mg 1000 1 tablet	Not Documented	Not Documented
11-16-12	BL	Hydrocodone/Apap 5/325mg 1 tab po q4h prn	Hydrocodone/Apap 5/325mg 1400 1 tablet	Not Documented	Not Documented
11-16-12	BL	Hydrocodone/Apap 5/325mg 1 tab po q4h prn	Hydrocodone/Apap 5/325mg 1800 1 tablet	Not Documented	Not Documented
11-16-12	BL	Hydrocodone/Apap 5/325mg 1 tab po q4h prn	Hydrocodone/Apap 5/325mg *time is illegible 1 tablet	Not Documented	Not Documented
11-16-12	BL	Hydrocodone/Apap 5/325mg 1 tab po q4h prn	Hydrocodone/Apap 5/325mg 2200 1 tablet	Not Documented	Not Documented
11-16-12	GC	Norco 5/325 1 tab po q6h prn	Hydrocodone/Apap 5/325mg 1000 1 tablet	Not Documented	Not Documented
11-16-12	GC	Noreo 5/325 1 tab po q6h prn	Hydrocodone/Apap 5/325mg 1600 1 tablet	Not Documented	Not Documented
11-16-12	GC	Norco 5/325 1 tab po q6h prn	Hydrocodone/Apap 5/325mg 2100 1 tablet	Not Documented	Not Documented
11-16-12	LS	Hydrocodone/Apap 10/325mg 1 tab q4h prn	Hydrocodone/Apap 10/325mg 2100	Not Documented	Not Documented
11-16-12	LS	Hydrocodone/Apap 10/325mg 1 tab q4h prn	Hydrocodone/Apap 10/325mg 0600 1 tablet	Not Documented	Not Documented
11-16-12	LS	Hydrocodone/Apap 10/325mg 1 tab q4h prn	Hydrocodone/Apap 10/325mg 2200 1 tablet	Not Documented	Not Documented
11-16-12	LB	Hydrocodone 10/325mg 1 tab po bid; 1 tab q6h prn	Hydrocodone/Apap 10/325mg 0600 1 tablet	Not Documented	Not Documented

Respondent's conduct was likely to injure the patients, in that subsequent care givers would rely on her documentation to further medicate the patients, which could result in an overdose. Respondent's conduct placed the hospital in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §§217.11(1)(D) and 217.12(1)(A),(1)(C)&(4).

CHARGE II.

On or about November 14, 2012, through November 16, 2012, while employed with CrestCare Nursing and Rehabilitation, Longview, Texas, Respondent signed out Hydrocodone on the facility's Individual Controlled Drug Records for residents, but failed to follow the facility's policy and procedure for wastage of the unused portions of the medications, as outlined in Formal Charge I (chart).

Respondent's conduct left medications unaccounted for, was likely to deceive the hospital pharmacy, and placed the pharmacy in violation of Chapter 481 (Controlled Substances Act) of the Texas Health and Safety Code.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 Tex. Admin. Code §§217.11(1)(A) and 217.12(10)(C)&(11)(B).

CHARGE III.

On or about November 14, 2012, through November 16, 2012, while employed with CrestCare Nursing and Rehabilitation, Longview, Texas, Respondent misappropriated Hydrocodone belonging to residents BL, GC, LS, and LB, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.

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(4)&(6)(G).

CHARGE IV.

On or about February 24, 2013, while employed with Heritage at Longview, Longview, Texas, Respondent misappropriated one (1) blister pack containing sixty (60) Hydrocodone/Acetaminophen 10/325 tablets belonging to Resident JO, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.

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(4)&(6)(G).

CHARGE V.

On or about February 24, 2013, while employed with Heritage at Longview, Longview, Texas, Respondent engaged in the intemperate and/or unlawful use of Hydrocodone and Hydromorphone

in that she produced a specimen for a random drug screen that resulted positive for Hydrocodone and Hydromorphone. Unlawful possession of hydromorphone and hydrocodone is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Hydromorphone and Hydrocodone by a Licensed Vocational 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.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9)&(10), Texas Occupations Code, and is a violation of 22 Tex. Admin. Code §217.12(4),(10)(D)&(11)(B).

CHARGE VI.

On or about February 25, 2013, while employed with Heritage at Longview, Longview, Texas, Respondent misappropriated one (1) blister pack containing thirty (30) Hydrocodone/Acetaminophen 5/325 tablets belonging to Resident CM, or failed to take precautions to prevent such misappropriation. Respondent disclosed to staff that she placed the pills somewhere but forgot where she laid them down. Respondent's conduct was likely to defraud the facility and patients thereof of the cost of the medications.

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(4)&(6)(G).

CHARGE VII.

On or about August 22, 2013, while holding a license as a Vocational Nurse in the State of Texas, Respondent submitted an online 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:

- A. been convicted of a misdemeanor?
- B. been convicted of a felony?
- 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 guilty?
- F. been sentenced to serve jail or prison time? court-ordered confinement?
- G. been granted pre-trial diversion?
- H. been arrested or have any pending criminal charges?
- I. been cited or charged with any violation of the law?

- I. been cited or charged with any violation of the law?
- J. been subject of a court-martial; Article 15 violation; or received any form of military judgement/punishment/action?"

Respondent failed to disclose that on or about August 10, 2013, she was arrested by the Harrison County Sheriff's Office, Marshall, Texas, for FAIL TO IDENTIFY FUGITIVE FROM JUSTICE, a Class B misdemeanor offense.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(2)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(6)(I).

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.

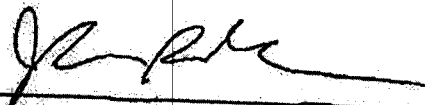
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, for Lying and Falsification, and for Fraud, Theft and Deception, which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

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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.texas.gov/disciplinaryaction/discp-matrix.html.

Filed this 18 day of October, 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

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

SOAH DOCKET NO. 507-14-2658

TEXAS BOARD OF NURSING,
Petitioner

v.

MISTY BRIANNE FLOWERS,
Respondent

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BEFORE THE STATE OFFICE

OF


ADMINISTRATIVE HEARINGS

ORDER NO. 1
ORDER DISMISSING CASE

This matter came to be heard on May 27, 2014, before Administrative Law Judge (ALJ) Roy G. Scudday. Assistant General Counsel R. Kyle Hensley appeared on behalf of the Texas Board of Nursing (Board/Staff). Respondent Misty Brienne Flowers did not appear and was not represented at the hearing. Upon receiving Staff's Exhibits 1 and 4, showing proof of adequate notice to the Respondent,¹ the ALJ found there was adequate notice and granted Staff's Motion for Default.

Therefore, it is **ORDERED** that this matter is **DISMISSED** from the docket of the State Office of Administrative Hearings on a default basis. Tex. Admin. Code § 155.501(d).² The file is being returned to the Board for informal disposition. Tex. Gov't Code § 2001.056.

SIGNED June 9, 2014.


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

¹ Staff's Exhibit 4 is the Notice of Hearing dated March 21, 2014, certified mailing to the Respondent at SG25 Lake Cherokee, Henderson, Texas 75652, the last known address of Respondent. The certified mailing was signed for by Respondent.

² The ALJ only reviewed the adequacy of the notice and not the sufficiency of the factual allegations.